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The Kosciusko Jefferson

(*Jefferson at Fifty-four*)

Photogravure from Sokolnicki's Colored Lithograph of the Original Crayon by General Thaddeus Kosciusko. By permission of William J. Campbell, of Philadelphia.

The portrayal of Jefferson by Kosciusko was a labor of love. It was done during Kosciusko's visit to the United States, 1797-1798. The original pastel has been lost, but a few copies of the contemporary color reproduction by Sokolnicki, printed in 1798, are still extant. This engraving bears the following inscription: "Thomas Jefferson, A Philosepher a Patriote and a Friend. Dessiné par son Ami Tadée Kosciuszko. Et gravé par Mr Sokolnicki."

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THE WRITINGS OF
THOMAS JEFFERSON

Definitive Edition

CONTAINING HIS

AUTOBIOGRAPHY, NOTES ON VIRGINIA, PARLIAMENTARY MANUAL, OFFICIAL PAPERS, MESSAGES AND ADDRESSES, AND OTHER WRITINGS, OFFICIAL AND PRIVATE, NOW COLLECTED AND

PUBLISHED IN THEIR ENTIRETY FOR THE FIRST TIME

INCLUDING

ALL OF THE ORIGINAL MANUSCRIPTS, DEPOSITED IN THE DEPARTMENT OF STATE AND PUBLISHED IN 1853 BY ORDER OF THE JOINT COMMITTEE OF CONGRESS

WITH NUMEROUS ILLUSTRATIONS

AND

A COMPREHENSIVE ANALYTICAL INDEX

ALBERT ELLERY BERGH
EDITOR

14639

VOL. XVII.

ISSUED UNDER THE AUSPICES OF
THE THOMAS JEFFERSON MEMORIAL ASSOCIATION
OF THE UNITED STATES
WASHINGTON, D. C.
1907

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JEFFERSON'S RELIGION.

"Rebellion to tyrants is obedience to God."
—*Motto on Jefferson's Seal*

To attempt to pry into the heart of any man and analyze his religious convictions was the last thing Thomas Jefferson would have done. "Religion is a subject on which I have been most scrupulously reserved," he wrote in a letter to Richard Rush; "I have considered that it is a matter between a man and his Maker in which no other, and far less the public, had a right to intermeddle." For this reason the writer was somewhat reluctant to enter into the arcana of Jefferson's religious beliefs. But the memory and influence of Jefferson are so precious an heritage to the American people that any effort to defend them from slander and misinterpretation is its own justification. Over-zealous partisans of religious conceptions have made bitter attacks upon Jefferson, both while he was alive and since his death. He has been called an atheist and infidel, and the fiercest denunciations of his life and character, based upon this thought, have been hurled against him. While not altogether undisturbed by these attacks he felt, as he has himself

expressed it, that "the patriot, like the Christian, must learn that to bear revilings and persecutions is a part of his duty." "I know I might have filled the courts of the United States with actions for these slanders," he adds, "and have ruined, perhaps, many persons who are not innocent. But this would be no equivalent to the loss of character. I leave them to the reproof of their own consciences. If these do not condemn them, there will yet come a day when the false witness will meet a Judge who has not slept over his slander."

Both Jefferson and his defamers of his day have long gone to meet that sleepless Judge. The attacks upon him did not cease when his mighty mind rested from its work and his noble soul left its tenement of clay. But "though being dead, he yet speaketh," and his words, treasured in the pantheon of humanity's most splendid utterances, do tell to-day of his abiding faith and his reverent obedience to the Divine Will. I purpose to let his own words speak for him, and himself to express what, he being silent, no other man would have right to affirm or deny.

Far from being an infidel or an atheist Thomas Jefferson was a deeply reverent and religious spirit, a firm believer in God and in the supreme justice of His overruling providence. Jefferson's religion was that of an earnest, serious character, the result of many hours of profound study and meditation. Its very nature forbade its display, much more its

constant protestation. He did not feel that it was necessary for him to "wear his heart upon his sleeve," nor did he ask any other man to do so. But he was not a dogmatist. His religion was a rational faith and not a theological creed. He believed firmly in the existence of God, and he believed just as firmly that every human being had the right to believe as he chose, or to disbelieve if he chose. This faith he gave evidence of on many occasions and in many documents, both of public and private nature. In an address which he prepared for the Virginia House of Burgesses to be presented to Lord Dunmore, in 1775, he uses this language: "We commit our injuries to the even-handed justice of that Being, Who doth no wrong, earnestly beseeching Him to illuminate the councils, and prosper the endeavors of those to whom America has confided her hopes." In his first inaugural address he said, "May that infinite Power which rules the destinies of the universe, lead our councils to what is best and give them a favorable issue for your peace and prosperity." In an address of Congress to General Washington, prepared by Jefferson, are these words, "We join you in commending the interests of our dearest country to the protection of Almighty God, beseeching Him to dispose the hearts and minds of its citizens to improve the opportunity afforded them of becoming a happy and respectable nation. And for you we address to Him our earnest prayers, that a life so

beloved may be fostered with all His care; that your days may be happy as they have been illustrious; and that He will finally give you that reward which this world cannot give." In a letter to John Adams, written in 1823, he upholds the teleological argument for the existence of God, and declares that he holds, without an appeal to revelation, the belief that the consummate skill and infinite power exhibited in the universe support the hypothesis of an eternally pre-existent Creator.

He did not hesitate to seek, publicly in prayer, the help of God. In his first inaugural address he invokes the help of that "Infinite power which rules the destinies of the universe." In his second inaugural address he says, "I shall need the favor of that Being in Whose hands we are, Who led our forefathers, as Israel of old, from their native land and planted them in a land flowing with all the necessaries and comforts of life; Who has covered our infancy with His providence and our riper years with His wisdom and power; and to Whose goodness I ask you to join me in supplications, that He will so enlighten the minds of your servants; guide their councils and prosper their measures that whatsoever they shall do shall result in your good, and secure the peace, friendship and approbation of all nations,"

His belief in immortality he voiced a number of times, and very clearly so in a letter to John Adams, written toward the close of his life. He wrote,

"The term is not very distant when we are to deposit in the same cerement our sorrows and our suffering bodies, and to ascend in essence to an ecstatic meeting with the friends we have loved and lost, and whom we shall still love and never lose again."

Thomas Jefferson was neither a hypocrite nor a coward. These utterances were not thus made to curry favor or to cater to an unreasoning public, nor to ward off attack. They were given in private letters to personal friends, and most of those that were incorporated in public documents were done so after he had attained to the Presidency, the highest gift at the hands of the people, and when he had nothing more of public honor to await. They are the sincere outpourings of a brave and reverent soul, of an earnest heart that beat in full sympathy with his fellow-men and in humble concord with the throbbing pulse of the omnipresent and omniscient Spirit that permeates the universe.

It is possible that the charge of atheism, where it was not the fruit of malice, grew out of a misunderstanding of the noble tolerance and breadth of view that characterized the sage of Monticello. He was utterly free from every form of cant. His constant struggle was for liberty. Liberty was the passion of his life. He could not abide anything that savored in the slightest of any form of tyranny or compulsion. He said, "I have sworn, on the altar of God, eternal hostility against every form of

tyranny over the mind of man." Full seventy-five years before the great conflict that finally cut the Gordian knot of slavery, Jefferson endeavored to obtain its abolition by the gradual emancipation of the slave. He deplored slavery on the high ground of justice and morality, and he fought for its destruction on the lofty basis of liberty and human right. It was a thing dear to his heart and a life-long anxiety; and on it he speaks with the sentiment of a patriot and a God-fearing man. He wrote, "Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with His wrath? Indeed I tremble for my country when I reflect that God is just; that His justice cannot sleep forever; that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation is among possible events; that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest."

Shortly before his death he sketched the simple design that has served as the model for his tombstone, and he selected the epitaph which he desired to be placed thereon. He had been Governor of Virginia, he had been Ambassador to France. He had been Vice-President and twice President of the United States. But he made no mention of these.

He wished to be remembered as the "Author of the Declaration of American Independence, and of the Virginia Statute for Religious Freedom, and as Father of the University of Virginia." These were his achievements in behalf of human liberty. They comprise civil freedom, religious freedom and intellectual freedom. If he laid stress upon any one of these, it was upon religious freedom, the freedom of conscience. To him conscience was the voice of God within the human breast. It was the final guide, the ultimate arbiter of all things. It was too intimate, too sacred a thing to be made to suffer the least coercion. It was the fountain of all other liberties and its untrammeled activity was to be maintained at all hazard. It was this view of conscience that made him so reserved in the matter of religion. "I am averse to the communication of my religious tenets to the public," he said "because it would countenance the presumption of those who have endeavored to draw them out before that tribunal, and to reduce public opinion to erect itself into that inquisition over the rights of conscience which the laws so justly prescribe."

A misinterpretation of these utterances in behalf of religious freedom may have given rise to the attacks made upon him. But he did not deny God. He denied the dogmatic statements that men had made about God. He was no enemy of religion, but he was a bitter opponent to the bigotry of sectarianism. Tyranny was tyranny, whether

it was the tyranny of the throne or the tyranny of theology, and against every form of tyranny he had sworn eternal hostility. He was consistently an untiring advocate of the separation of church and state. Their union is an illogical and a dangerous one. No one saw this more clearly than Jefferson, and no one argued against it more cogently or logically than he. Like all his reasoning on earnest topics, his arguments are based on the high ground of morality and pure religion itself. "To suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on the supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty. I cannot give up my guidance to the magistrate, because he knows no more the way to Heaven than I do, and is less concerned to direct me right, than I am to go right. If a magistrate command me to bring my commodity to a public storehouse, I bring it because he can indemnify me if he erred, and I thereby lose it; but what indemnification can he give one for the kingdom of Heaven? Believing that religion is solely a matter that lies between a man and his God, that he owes account to none other for his faith and his worship, that the legislative powers of government reach actions only and not opinions, I contemplate with sovereign reverence that act of the whole American people, which declared that their legislature should make no law

respecting an establishment of religion, or prohibiting the free exercise thereof, thus building a wall of separation between church and state." These are some of the sentiments which he expressed relative to the union of the church and the state.

His attitude toward the church itself is best given in the definition of a church which he set forth, that it is "a *voluntary* society of men joining themselves of their own accord in order to the public worshiping of God in such a manner as they judge acceptable to Him and effectual to the salvation of their souls. It is *voluntary*, because no man is by nature bound to any church. The hope of salvation is the cause of his entering into it. If he find anything wrong about it he should be as free to go out as he was to come in." As to the jurisdiction of the church he added, "Each church being free, no one can have jurisdiction over another one, not even when the civil magistrate joins it. It neither acquires the right of the sword by the magistrate's coming into it, nor does it lose the right of instruction or excommunication by his going from it."

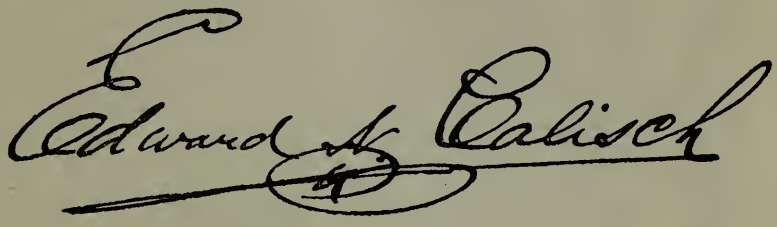
Of his attitude toward the Christian church specifically he gave a statement, in a letter written to Dr. Rush, in 1813. His views, he says, are "the result of a life of enquiry and reflection and very different from that anti-Christian system imputed to me by those who know nothing of my opinions. To the corruptions of Christianity I am indeed

opposed, but not to the precepts of Jesus Himself. I am a Christian in the only sense in which He wished any one to be; sincerely attached to His doctrines in preference to all others; ascribing to Himself every human excellence, and believing He never claimed any other." To this letter he added a short syllabus, in which, after reviewing the ethics of ancient philosophy and of the Hebrew code, and giving a brief history of the life of Jesus, he says that in spite of imperfections, due to various causes, the moral doctrines taught by Jesus surpass those of the other philosophies, give juster notions of the attributes and government of God and that whereas the "Precepts of philosophy and of the Hebrew code laid hold of actions only, He (Jesus) pushed His scrutinies into the heart of man, erected His tribunal in the region of his thoughts and purified the waters at the fountain head."

In his own words Jefferson has given his religious views. To have charged him with being an atheist, or an infidel, or an enemy of religion, was simply folly, where it was not malicious invention. Jefferson had far more religion than his detractors, I care not how orthodox their views or how frequent their church attendance. Jefferson devoted his life, the whole energy of his splendid moral strength and his finely equipped mind, to the service of his fellow men. Humanity has had no more loyal servant and pure religion no truer defender.

Men are beginning to differentiate between theol-

ogy and religion, between creed and faith. The throne of dogmatism has been shaken and the rule of sectarianism is nigh unto its end. In the light of a nobler vision men are beginning to see that deed is better than dogma, that character and conduct are more than theological finesse; that the eternal God is the Father of all human beings; that He understands the language of every prayer and hears and heeds the moan of every heart. To serve humanity is to serve humanity's God. Like Ben Adhem's name, when the roll is called of those who loved God best, the name of Thomas Jefferson will lead all the rest, for he loved his fellow-men and worked and suffered for them.



The West Point Jefferson

(*Jefferson at Seventy-eight*)

Reproduced from the Original Painting by Thomas Sully, at the United States Military Academy at West Point.

This full-length portrait of Jefferson was completed four years after his death, from the painting made by Sully, in March, 1821. (See frontispiece to Volume XI.) The artist visited Monticello, at the request of the authorities of West Point, for the express purpose of having Jefferson sit for his portrait. The reason the officers of the Corps of Engineers, U. S. A., desired the portrait was because "President Jefferson, March 16, 1802, approved the act of Congress creating the Army and Navy Corps of Engineers, which 'shall constitute a Military Academy.'" The portrait now hangs in the Library at West Point and the canvas is indorsed by Sully: "From Jefferson 1821, completed 1830."

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Portraits of Non-signers*

(Declaration of Independence)

The Reproductions are from the Original Paintings in Independence Hall, Philadelphia.

John Dickinson (1730-1808) was born in Maryland. He studied law in Philadelphia and London, and in 1764 he was elected to the Pennsylvania Assembly. The next year he was a deputy to the First Colonial Congress and drew its resolutions. He published his well-known "Farmer's Letters" in 1767, which were republished in England and France. In 1774 he became a delegate to the Continental Congress, where he wrote many important state papers, and published his "Essay on the Constitutional Power of Great Britain over the Colonies in America." He objected to the Declaration of Independence as premature, and refused to sign it. This made him unpopular and he was compelled for a time to withdraw from public life. However, in April, 1779, he returned to Congress and wrote "The Address to the States" of May 26th. From 1781 to 1785 he was President of the States of Delaware and Pennsylvania, and in 1787 was elected a member of the convention for framing the Federal Constitution. Then followed the publication of the famous "Fabius" letters, urging the adoption of that Constitution. He founded and endowed the college which bears his name. (*Reproduced from the Original Painting by Charles Wilson Peale.*)

John Nixon (1733-1808) was born in Philadelphia, Pa. Early in 1765 he took active part in opposing the measures of the Stamp Act, and signed the non-importation agreement. He became a member of the first Committee of Correspondence in Pennsylvania. He was appointed in April, 1775, Lieutenant-Colonel of the Third Battalion of the *Associators*. After having charge of the defenses of the Delaware at Fort Island, from May to July, 1776, he was given command of the city of Philadelphia. He was the first man to announce publicly the Declaration of Independence, which he read from the steps of the Philadelphia Court House, on the 8th day of July, 1776. He was one of the organizers of the Bank of North America, and its president from 1792 till the year of his death. (*Reproduced from the Original Painting.*)

Charles Thomson (1729-1824) was born at Maghera, Ireland. When twelve years of age he landed at New Castle, Del., together with three sisters. His sole capital was industry. Dr. Allison, taking a great interest in the boy, educated him and fitted him for the position of tutor at the Friends' Academy of New Castle. On leaving that school he removed to Philadelphia, where he won the friendship of Dr. Franklin. In 1758 he was one of the commissioners sent to treat with the Indians at Oswego. The Delawares adopted him and gave him a name that signified "one who speaks truth." He was the only secretary Congress had during the stress of the Revolution, holding the position continuously from 1774 to 1789. Jefferson and Thomson corresponded over thirty years. (*Reproduced from the Original Painting by Charles Wilson Peale.*)

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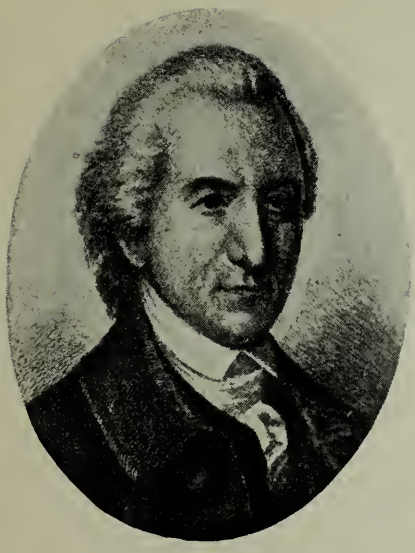
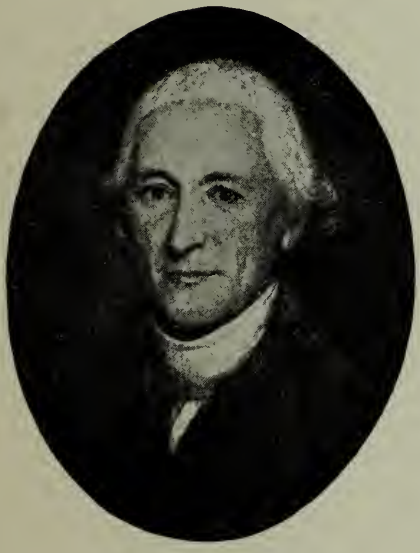


JOHN DICKINSON

COL. JOHN NIXON



CHARLES THOMSON

REV. BISHOP WHITE

MISCELLANEOUS PAPERS.

INTRODUCTORY NOTES.

Aside from the official documents drawn by Jefferson in connection with his political positions, he left, at his death, among his voluminous manuscripts, a mass of material that he had prepared for special or private purposes. Of such the Miscellaneous Papers are composed together with rough drafts and extempore notes made for future elaboration, and evidently for some final and effective use. The papers presented under this head cover a period of nearly half a century, from the time Jefferson was Governor of Virginia right up to the year of his death. At the beginning of this series will be found the extracts from Jefferson's diary during the years 1780–81—excerpts he selected to vindicate his conduct as Executive of his State during the invasion of Virginia under Benedict Arnold. Jefferson retired from the Governorship of Virginia amid a storm of criticism and censure and determined never to fill another public office. Subsequently, however, he was mollified by the apology extended by the Legislature for the obloquy cast upon him, and accepted a reappointment to Congress. Due to his efforts there are the humane measures, promulgated in the Instructions to American Ministers for negotiating commercial treaties with European nations.

These "Instructions" are followed by a group of unclassified papers written while Jefferson was Minister to France. At the close of this group we have daily memoranda jotted down by Jefferson on trips made in the early spring through the southern part of France and northern section of Italy; chiefly interesting as exhibiting the minuteness of his observation and his examination of anything in the line of agricultural, mechanical or industrial improvements that might prove of value to his country.

Many of these Miscellaneous Papers were written while Jefferson was Secretary of State, and bear evidence of his powers as a diplomat in maintaining peaceful relations with war-waging foreign countries. They also present his successful arguments in securing the right to navigate the Mississippi—one of the first steps to reveal the importance and worth of the Louisiana territory.

Probably one of the most interesting papers in the entire collection is the draft of the famous Kentucky Resolutions from the pen of Jefferson

while Vice-President. These Resolutions were drawn as a protest against the Alien and Sedition Laws as "palpable and alarming infractions of the Constitution." They were passed with some changes by the Kentucky Legislature on November 14, 1798. Jefferson's authorship of these Resolutions was kept a secret for many years. In 1821 he wrote a brief history of their inception in a letter to the son of his friend, Colonel W. C. Nicholas. He says in this letter: "At the time when the republicans of our country were so much alarmed at the proceedings of the Federal ascendancy in Congress, in the Executive and Judiciary departments, it became a matter of serious consideration how head could be made against their enterprises on the Constitution. The leading republicans in Congress found themselves of no use there, browbeaten as they were by a bold and overwhelming majority. They concluded to retire from that field, take a stand in their State legislatures, and endeavor there to arrest their progress. The Alien and Sedition Laws furnished the particular occasion. The sympathy between Virginia and Kentucky was more cordial and more intimately confidential than between any other two States of republican policy. Mr. Madison came into the Virginia Legislature. I was then in the Vice-Presidency, and could not leave my station; but your father, Colonel W. C. Nicholas, and myself, happening to be together, the engaging coöperation of Kentucky in an energetic protestation against the constitutionality of those laws became a subject of consultation. Those gentlemen pressed me strongly to sketch resolutions for that purpose, your father undertaking to introduce them to that legislature, with a solemn assurance which I strictly required, that it should not be known from what quarter they came. I drew and delivered them to him, and in keeping their origin secret he fulfilled his pledge of honor."

There are at least two remaining numbers of the Miscellaneous Papers which will awaken the interest of even the casual reader. Namely the scheme for organizing agricultural societies devised by Jefferson in his retirement at Monticello, in 1811, as an early expression of such a project; and the construction of a plan for establishing elementary schools in the form of a bill outlining a system of education incorporating principles not improved upon in this day of eclectic and synthetic instruction. Attention is called to the fact that this far-reaching educational thesis of Jefferson is given for the first time in its entirety in the present edition of his Writings. The Congressional edition of 1853 gave it in part, while the Ford collection of 1892 omitted it altogether.

JEFFERSON'S WORKS.

MISCELLANEOUS PAPERS.

Extract from Diary relative to the Invasion of Virginia in 1780, 1781.

Saturday, December the 31st, 1780, eight o'clock, A. M. Received first intelligence that twenty-seven sail were, on the morning of December the 29th, just below Willoughby's Point. Sent off General Nelson, with full powers.

1781. January the 1st. No intelligence.

January the 2d, ten o'clock, A. M. Information from N. Burwell, that their advance was at Warrasqueak Bay. Gave orders for militia, a quarter from some, and half from other counties. Assembly rose.

Wednesday, January the 3d, eight o'clock, P. M. Received a letter from E. Archer, Swan's Point, that at twelve o'clock that day they were at anchor a little below Jamestown. At five o'clock, P. M., of the same day, I had received a letter from R. Andrews for General Nelson, that they were at Jamestown the evening of the 2d.

Thursday, January the 4th, five o'clock, A. M. Mr. Eppes and family, etc., came and informed me from the Speaker, that they had passed Kennon's and Hood's the evening before; the tide having made for them at one o'clock, P. M., of the 3d, and the wind shifted to the east strong. They had not, however, passed Hood's, but anchored at Kennon's. Called whole militia from adjacent counties. I was then anxious to know whether they would pass Westover, or not, as that would show the side they would land.

Five o'clock, P. M. Learned by Captain De Ponthiere, that at two o'clock, P. M., they were drawn up at Westover. Then ordered arms, and stores, etc., (which till then had been carrying to Westham,) to be thrown across the river at Richmond; and at half-past seven o'clock, P. M., set out to the foundry and Westham, and set Captain Brush, Captain Irish, and Mr. Hylton, to see everything wagoned from the magazine and laboratory to Westham, and there thrown over; to work all night. The enemy encamped at Four-Mile Creek. I went to Tuckahoe and lodged.

January the 5th. Went early over the river with my family; sent them up to Fine Creek; went myself to Westham; gave orders for withdrawing ammunition and arms (which lay exposed on the bank to the effect of artillery from opposite shore), behind a point. Then went to Manchester; had a view of the enemy. My horse sunk under me with

fatigue; borrowed one, went to Chetwood's, appointed by Baron Steuben as a rendezvous and headquarters; but finding him not there, and understanding he would go to Colonel Henry's, I proceeded there for quarters. The enemy arrived in Richmond at one o'clock, P. M. One regiment of infantry and thirty horse proceeded, without stopping, to the foundry; burned that and the magazine and Ballendine's house, and went as far as Westham. They returned that evening to Richmond. Sent me a proposition to compound for property. Refused.

January the 6th. In the morning they burned certain houses and stores, and at twelve o'clock of that day left Richmond, and encamped at Four-Mile Creek. I went to Westham, ordered books and papers particularly from magazine. In the evening I went up to Fine Creek.

January the 7th. I returned to Westham, and then came down to Manchester, where I lodged. The enemy encamped at Westover and Berkley. It had rained excessively the preceding night, and continued to do so till about noon. Gibson has one thousand; Steuben, eight hundred; Davis, two hundred; Nelson, two hundred and fifty.

January the 8th, at half-past seven o'clock, A. M. I returned to Richmond. The wind gets, about this time, to northwest; a good gale; in the afternoon becomes easterly. The enemy remain in their last encampment. General Nelson at Charles City C. H.

Colonel Nicholas with three hundred men at the Forest.

January the 9th, eleven o'clock. The wind is southeast, but almost nothing. The enemy remain in their last encampment, except embarking their horse.

January the 10th, at one o'clock, P. M. They embark infantry, and fall down the river, the wind having shifted a little north of west, and pretty fresh. Baron Steuben gets to Bland's Mills to-night, nine miles short of Hood's.

January the 11th, eight o'clock, A. M. The wind due west, and strong.

Loss sustained by the public.

The papers and books of the Council since the Revolution. The papers of the auditors, but not their books. Five brass field-pieces, four-pounders, which had been sunk in the river, but were weighed by the enemy. About one hundred and fifty arms in the Capitol loft. About one hundred and fifty in a wagon on the Brook road. About five tons of powder, and some made ammunition at magazine. Some small proportion of the linens, cloths, etc., in the public store. Some quartermasters' stores; the principal articles was one hundred and twenty sides of leather. Some of the tools in the artificers' shops. Foundry, magazine, four artificers' shops, public store, quartermasters' store, one artificers' shop, three wagons.

The legislature was sitting when the entrance of the enemy into James river was made known. They were informed, without reserve, of the measures adopted. Every suggestion from the members was welcomed and weighed, and their adjournment on the 2d of January furnished the most immediate and confidential means of calling for the militia of their several counties. They accordingly became the bearers of those calls, and they were witnesses themselves, that every preparation was making which the exhausted and harassed state of the country admitted.

They met again at Richmond in May, and adjourned to Charlottesville, where they made a House on the 28th. My office of Governor expired on the 2d of June, being the fifth day of the session; and no successor had been appointed, when an enterprise on the 4th by Tarleton's cavalry drove them thence, and they met again at Staunton on the 7th. Some members attended there who had not been at Richmond at the time of Arnold's enterprise. One of these, George Nicholas, a very honest and able man, then, however, young and ardent, supposing there had been some remissness in the measures of the Executive on that occasion, moved for an inquiry into them, to be made at the succeeding session. The members who had been present and privy to the transactions, courted the inquiry on behalf of the executive. Mr. Nicholas, as a candid and honorable man, sent me, through a friend, a

copy of the topics of inquiry he proposed to go into; and I communicated to him, with the same frankness, the justifications I should offer, that he might be prepared to refute them if not founded in fact. The following is a copy of both:—

1*st Objection.*—That General Washington's information was, that an embarcation was taking place, destined for this State.

Answer.—His information was, that it was destined for the southward, as was *given out* at New York. Had similar informations from General Washington, and Congress, been considered as sufficient ground at all times for calling the militia into the field, there would have been a standing army of militia kept up; because there has never been a time, since the invasion expected in December, 1779, but what we have had those intimations hanging over our heads. The truth is, that General Washington always considered as his duty to convey every rumor of an embarkation; but we (for some time past, at least) never thought anything but actual invasion should induce us to the expense and harassment of calling the militia into the field; except in the case of December, 1799, when it was thought proper to do this in order to convince the French of our disposition to protect their ships. Inattention to this necessary economy, in the beginning, went far towards that ruin of our finances which followed.

2d Objection.—Where were the post-riders, established last summer?

Answer.—They were established at Continental expense, to convey speedy information to Congress of the arrival of the French fleet, then expected here. When that arrived at Rhode Island, these expenses were discontinued. They were again established on the invasion in October, and discontinued when that ceased. And again on the first intimation of the invasion of December. But it will be asked, why were they not established on General Washington's letters? Because those letters were no more than we had received upon many former occasions, and would have led to a perpetual establishment of post-riders.

3d Objection.—If a proper number of men had been put into motion on Monday, for the relief of the lower country, and ordered to march to Williamsburg, that they would at least have been in the neighborhood of Richmond on Thursday.

Answer.—The order could not be till Tuesday, because we then received our first certain information. Half the militia of the counties round about Richmond were then ordered out, and the whole of them on the 4th, and ordered not to wait to come in a body, but in detachments as they could assemble. Yet were there not on Friday more than two hundred collected, and they were principally of the town of Richmond.

4th Objection.—That we had not the signals.

Answer.—This, though a favorite plan of some gentlemen, and perhaps a practicable one, has hitherto been thought too difficult.

5th Objection.—That we had not look-outs.

Answer.—There had been no cause to order look-outs more than has been ever existing. This is only in fact asking why we do not always keep look-outs.

6th Objection.—That we had not heavy artillery on travelling carriages.

Answer.—The gentlemen who acted as members of the Board of War a twelvemonth can answer this question, by giving the character of the artificers whom, during that time, they could never get to mount the heavy artillery. The same reason prevented their being mounted from May, 1780, to December. We have even been unable to get those heavy cannon moved from Cumberland by the whole energy of government. A like difficulty which occurred in the removal of those at South Quay, in their day, will convince them of the possibility of this.

7th Objection.—That there was not a body of militia thrown into Portsmouth, the great bridge, Suffolk.

Answer.—In the summer of 1780, we asked the favor of General Nelson, to call together the County Lieutenants of the lower counties, and concert the general measures which should be taken for instant opposition, on any invasion, until aid could be ordered by the Executive; and the County Lieuten-

ants were ordered to obey his call; he did so the first moment, to wit, on Saturday, December the 31st, at 8 o'clock A. M., of our receiving information of the appearance of a fleet in the bay. We asked the favor of General Nelson to go down, which he did, with full powers to call together the militia of any counties he thought proper, to call on the keepers of any public arms or stores, and to adopt for the instant such measures as exigencies required, till we could be better informed.

Query.—Why were not General Nelson, and the brave officers with him, particularly mentioned?

Answer.—What should have been said of them? The enemy did not land, nor give them an opportunity of doing what nobody doubts they would have done; that is, something worthy of being minutely recited.

Query.—Why publish Arnold's letter without General Nelson's answer?

Answer.—Ask the printer. He got neither from the Executive.

Objection.—As to the calling out a few militia, and that late.

Answer.—It is denied that they were few or late. Four thousand and seven hundred men (the number required by Baron Steuben) were called out the moment an invasion was known to have taken place, that is on Tuesday, January 2d.

Objection.—The abandonment of York and Portsmouth fortifications.

Answer.—How can they be kept without regulars, on the large scale on which they were formed? Would it be approved of to harass the militia with garrisoning them?

To place me on equal ground for meeting the inquiry, one of the representatives of my county resigned his seat, and I was unanimously elected in his place. Mr. Nicholas, however, before the day, became better satisfied as to what had been done, and did not appear, to bring forward the inquiry; and in a publication, several years after, he made honorable acknowledgment of the erroneous views he had entertained on those transactions. I therefore read in my place the inquiries he had proposed to make, and stated the justifications of the Executive. And nearly every member present having been a witness to their truth, and conscious all was done which could have been done, concurred at once in the following resolution:

"The following resolution was *unanimously* agreed to by both Houses of the General Assembly of Virginia, December the 19th, 1781.

"*Resolved*, That the sincere thanks of the General Assembly be given to our former Governor, Thomas Jefferson, Esquire, for his impartial, upright, and attentive administration whilst in office. The Assembly wish in the strongest manner to declare the high opinion they entertain of Mr. Jefferson's ability, rectitude, and integrity as Chief Magistrate of this Commonwealth, and mean, by thus publicly avow-

ing their opinion, to obviate and to remove all unmerited censure."

And here it is but proper to notice the parody of these transactions which General Lee has given as their history. He was in a distant State at the time, and seems to have made up a random account from the rumors which were afloat where he then was. It is a tissue of errors from beginning to end.

The nonsense which has been uttered on the *coup de main* of Tarleton on Charlottesville is really so ridiculous, that it is almost ridiculous seriously to notice it. I will briefly, however, notice facts and dates. It has been said before, that the legislature was driven from Charlottesville by an incursion of the enemy's cavalry. Since the adjournment from Richmond, their force in this country had been greatly augmented by reinforcements under Lord Cornwallis and General Phillips; and they had advanced up into the country as far as Elk Island, and the Fork of James river. Learning that the legislature was in session at Charlottesville, they detached Colonel Tarleton with his legion of horse to surprise them. As he was passing through Louisa on the evening of the 3d of June, he was observed by a Mr. Gouett, who, suspecting the object, set out immediately for Charlottesville, and knowing the byways of the neighborhood, passed the enemy's encampment, rode all night, and before sunrise of the 4th, called at Monticello with notice of what he had seen, and passed on to Charlottes-

ville to notify the members of the legislature. The Speakers of the two Houses, and some other members were lodging with us. I ordered a carriage to be ready to carry off my family; we breakfasted at leisure with our guests, and after breakfast they had gone to Charlottesville; when a neighbor rode up full speed to inform me that a troop of horse was then ascending the hill to the house. I instantly sent off my family, and after a short delay for some pressing arrangements, I mounted my horse; and knowing that in the public road I should be liable to fall in with the enemy, I went through the woods, and joined my family at the house of a friend, where we dined. Would it be believed, were it not known, that this flight from a troop of horse, whose whole legion, too, was within supporting distance, has been the subject, with party writers, of volumes of reproach on me, serious or sarcastic? That it has been sung in verse, and said in humble prose, that forgetting the noble example of the hero of La Mancha, and his wind-mills, I declined a combat singly against a troop, in which victory would have been so glorious? Forgetting, themselves, at the same time, that I was not provided with the enchanted arms of the Knight, nor even with his helmet of Mambrino. These closet heroes, forsooth, would have disdained the shelter of a wood, even singly and unarmed, against a legion of armed enemies.

Here, too, I must note another instance of the want of that correctness in writing history, without

which it becomes romance. General Lee says that Tarleton, in another enterprise some time after, penetrated up the south side of James river to New London, in Bedford county. To that neighborhood precisely, where I had a possession, I had carried my family, and was confined there several weeks by the effects of a fall from my horse; and I can assure the readers of General Lee's history, that no enemy ever came within forty miles of New London.

Memorandum relative to invasion of Virginia in 1780, 1781.

Among the manuscripts of Mr. Jefferson, and *in his own handwriting*, is the following paper in relation to the invasion of Virginia in 1780–1781. It is, therefore, inserted here, in connection with the foregoing extract from his diary.

Richmond, 1780. Dec. 31st, at 8 A. M. The Governor received the first intelligence that twenty-seven sail of ships had entered Chesapeake Bay, and were in the morning of the 29th just below Willoughby's Point, [the southern cape of James river,] their destination unknown.

1781. January 2, at 10 A. M. Information received that they had entered James river, their advance being at Warrasqueak Bay. Orders were immediately given for calling in the militia, one-fourth from some, and half from other counties. The members of the legislature, which rises this day, are the bearers of the orders to their respective

counties. The Governor directs the removal of the records into the country, and the transportation of the military stores from Richmond to Westham, [on the river seven miles above,] there to be carried across the river.

January 3d, 8 P. M. The enemy are said to be a little below Jamestown; convenient for landing, if Williamsburg is their object.

January 4th, at 5 A. M. Information is received that they had passed Kennon's and Hood's the evening before with a strong easterly wind, which determines their object to be either Petersburg or Richmond. The Governor now calls in the whole militia from the adjacent counties.

At 5 P. M. Information that at 2 P. M. they were landed and drawn up at Westover, [on the north side of the river, and twenty-five miles below Richmond,] and consequently Richmond was their destination. Orders are now given to discontinue wagoning the military stores from Richmond to Westham, and to throw them across directly at Richmond.

The Governor having attended to this till an hour and a half in the night, then rode up to the foundry, [one mile below Westham,] ordered Captains Brush and Irish, and Mr. Hylton to continue all night wagoning to Westham the arms and stores still at the foundry, to be thrown across the river at Westham, then proceeded to Westham to urge the pressing the transportation there across the river, and

thence went to Tuckahoe [eight miles above, and on the same side of the river] to see after his family, which he had sent that far in the course of the day. He arrived there at 1 o'clock in the night.

Early in the morning he carried his family across the river there, and sending them to Fine Creek, [eight miles higher up,] went himself to Breton's on the south side of the river, [opposite to Westham,] finding the arms, etc., in a heap near the shore, and exposed to be destroyed by cannon from the north bank. He had them removed under cover of a point of land near by. He proceeded to Manchester [opposite to Richmond]. The enemy had arrived at Richmond at 1 P. M. Having found that nearly the whole arms had been got there from Richmond, he set out for Chetwood's to meet with Baron Steuben, who had appointed that place as a rendezvous and headquarters; but not finding him there, and understanding that he would be at Colonel Fleming's, [six miles above Breton's,] he proceeded thither. The enemy had now a detachment at Westham, and sent a deputation from the city of Richmond to the Governor at Colonel Fleming's to propose terms for ransoming the safety of the city, which terms he rejected. The Governor returned to Breton's, had measures taken more effectually to secure the books and papers there. The enemy having burnt some houses and stores, left Richmond, after twenty-four hours' stay there, and encamped at Four-Mile Creek, [eight or ten miles below,] and

the Governor went to look to his family at Fine Creek.

He returned to Breton's to see further to the arms there, exposed on the ground to heavy rains which had fallen the night before, and then proceeded to Manchester, and lodged there. The enemy encamped at Westover.

At half-past 7 A. M. he crossed over to Richmond, and resumed his residence there. The enemy are still retained in their encampment at Westover by an easterly wind. Colonel John Nicholas has now three hundred militia at the Forest, [six miles off from Westover,] General Nelson two hundred at Charles City Court House, [eight miles below Westover,] Gibson one thousand, and Baron Steuben eight hundred on the south side the river.

January 9th. The enemy are still encamped at Westover.

January 10th. At 1 P. M. they embark; and the wind having shifted a little to the north of the west, and pretty fresh, they fall down the river. Baron Steuben marches for Hood's, where their passage may be checked. He reaches Bland's Mills in the evening, within nine miles of Hood's.

January 11th. At 8 A. M. the wind due west and strong, they may make good their retreat. During this period time and place have been minutely cited, in order that those who think there was any remissness in the movements of the Governor, may lay their finger on the point,

and say when and where it was. Hereafter less detail will suffice.

Soon after this General Phillips having joined Arnold with a reinforcement of two thousand men, they advanced again up to Petersburg, and about the last of April to Manchester. The Governor had remained constantly in and about Richmond, exerting all his powers collecting militia, and providing such means for the defence of the State as its exhausted resources admitted. Never assuming a guard, and with only the river between him and the enemy, his lodgings were frequently within four, five, or six miles of them.

M. de la Fayette, about this time, arrived at Richmond with some Continental troops, with which, and the militia collected, he continued to occupy that place, and the north bank of the river, while Phillips and Arnold held Manchester and the south bank. But Lord Cornwallis, about the middle of May, joining the main southern armies, M. de la Fayette was obliged to retire. The enemy crossed the river, and advanced up into the country about fifty miles, and within thirty miles of Charlottesville, at which place the legislature being to meet in June, the Governor proceeded to his seat at Monticello, two or three miles from it. His office was now near expiring, the country under invasion by a powerful army, no services but military of any avail, unprepared by his line of life and education for the command of armies, he believed it right

not to stand in the way of talents better fitted than his own to the circumstances under which the country was placed. He therefore himself proposed to his friends in the legislature that General Nelson, who commanded the militia of the State, should be appointed Governor, as he was sensible that the union of the civil and military power in the same hands at this time, would greatly facilitate military measures. This appointment accordingly took place on the 12th of June, 1781.

This was the state of things when, his office having actually expired, and no successor as yet in place, Colonel Tarleton, with his regiment of horse, was detached by Lord Cornwallis to surprise Mr. Jefferson (whom they thought still in office) and the legislature now sitting in Charlottesville. The Speakers of the two Houses, and some other members of the legislature, were lodging with Mr. Jefferson at Monticello. Tarleton, early in the morning, when within ten miles of that place, detached a company of horse to secure him and his guests, and proceeded himself rapidly with his main body to Charlottesville, where he hoped to find the legislature unapprized of his movement. Notice of it, however, had been brought, both to Monticello and Charlottesville, about sunrise. The Speakers, with their colleagues, returned to Charlottesville, and with the other members of the legislature, had barely time to get out of his way. Mr. Jefferson sent off his family to secure them from danger, and

was himself still at Monticello making arrangements for his own departure, when a Lieutenant Hudson arrived there at half speed, and informed him that the enemy were then ascending the hill of Monticello. He departed immediately, and knowing that he would be pursued if he took the high road, he plunged into the woods of the adjoining mountain, where being at once safe, he proceeded to overtake his family. This is the famous adventure of Carter's mountain, which has been so often resounded through the slanderous chronicles of federalism. But they have taken care never to detail the facts, lest these should show that this favorite charge amounted to nothing more than that he did not remain in his house, and there singly fight a whole troop of horse, or suffer himself to be taken prisoner. Having accompanied his family one day's journey, he returned to Monticello. Tarleton had retired after eighteen hours' stay in Charlottesville. Mr. Jefferson then rejoined his family, and proceeded with them to an estate he had in Bedford, about eighty miles southwest, where, riding on his farm some time after, he was thrown from his horse, and disabled from riding on horseback for a considerable time. But Mr. Turner finds it more convenient to give him this fall in his retreat before Tarleton, which had happened some weeks before, as a proof that he withdrew from a troop of horse with a precipitancy which Don Quixote would not have practiced.

The facts here stated most particularly, with date of time and place, are taken from the notes made by the writer hereof for his own satisfaction at the time. The others are from memory, but so well recollected that he is satisfied there is no material fact misstated. Should any person undertake to contradict any particular on evidence which may at all merit the public respect, the writer will take the trouble (though not at all in the best situation for it) to produce the proof in support of it. He finds, indeed, that of the persons whom he recollects to have been present on these occasions, few have survived the intermediate lapse of four and twenty years. Yet he trusts that some, as well as himself, are yet among the living; and he is positively certain that no man can falsify any material fact here stated. He well remembers, indeed, that there were then, as there are at all times, some who blamed everything done contrary to their own opinion, although their opinions were formed on a very partial knowledge of facts. The censures which have been heralded by such men as Wm. Turner, are nothing but revivals of these half-informed opinions. Mr. George Nicholas, then a very young man, but always a very honest one, was prompted by these persons to bring specific charges against Mr. Jefferson; the heads of these in writing were communicated through a mutual friend to Mr. Jefferson, who committed to writing also the heads of justification on

each of them. I well remember this paper, and believe the original of it still exists; and though framed when every real fact was fresh in the knowledge of every one, this fabricated flight from Richmond was not among the charges stated in this paper, nor any charge against Mr. Jefferson for not fighting singly the troop of horse. Mr. Nicholas candidly relinquished further proceeding. The House of Representatives of Virginia pronounced an honorable sentence of entire approbation of Mr. Jefferson's conduct, and so much the more honorable as themselves had been witness to it. And Mr. George Nicholas took a conspicuous occasion afterwards, of his own free will, and when the matter was entirely at rest, to retract publicly the erroneous opinions he had been led into on that occasion, and to make just reparation by a candid acknowledgment of them.

Instructions to the Ministers Plenipotentiary appointed to negotiate Treaties of Commerce with the European nations. May 7, 1784.

WHEREAS, instructions bearing date the 29th day of October, 1783, were sent to the Ministers Plenipotentiary of the United States of America at the Court of Versailles, empowered to negotiate a peace, or to any one or more of them, for concerting drafts or propositions for treaties of amity and commerce with the commercial powers of Europe;

Resolved, That it will be advantageous to these United States to conclude such treaties with Russia, the Court of Vienna, Prussia, Denmark, Saxony, Hamburg, Great Britain, Spain, Portugal, Genoa, Tuscany, Rome, Naples, Venice, Sardinia, and the Ottoman Porte.

Resolved, That in the formation of these treaties the following points be carefully stipulated:

1st. That each party shall have a right to carry their own produce, manufactures, and merchandise, in their own bottoms to the ports of the other, and thence the produce and merchandise of the other, paying, in both cases, such duties only as are paid by the most favored nation, freely, where it is freely granted to such nation, or paying the compensation where such nation does the same.

2. That with the nations holding territorial possessions in America, a direct and similar intercourse be admitted between the United States and such possessions; or if this cannot be obtained, then a direct and similar intercourse between the United States and certain free ports within such possessions; that if this neither can be obtained, permission be stipulated to bring from such possessions, in their own bottoms, the produce and merchandise thereof to their States directly; and for these States to carry in their own bottoms their produce and merchandise to such possessions directly.

3. That these United States be considered in all such treaties, and in every case arising under them,

as one nation, upon the principles of the federal constitution.

4. That it be proposed, though not indispensably required, that if war should hereafter arise between the two contracting parties, the merchants of either country, then residing in the other, shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hindrance; and all fishermen, all cultivators of the earth, and all artisans or manufacturers, unarmed and inhabiting unfortified towns, villages or places, who labor for the common subsistence and benefit of mankind, and peaceably following their respective employments, shall be allowed to continue the same, and shall not be molested by the armed force of the enemy, in whose power, by the events of war, they may happen to fall; but if anything is necessary to be taken from them, for the use of such armed force, the same shall be paid for at a reasonable price; and all merchants and traders, exchanging the products of different places, and thereby rendering the necessaries, conveniences, and comforts of human life more easy to obtain and more general, shall be allowed to pass free and unmolested; and neither of the contracting powers shall grant or issue any commission to any private armed vessels empowering them to take or destroy such trading ships, or interrupt such commerce.

5. And in case either of the contracting parties

shall happen to be engaged in war with any other nation, it be further agreed, in order to prevent all the difficulties and misunderstandings that usually arise respecting the merchandise heretofore called contraband, such as arms, ammunition, and military stores of all kinds, that no such articles, carrying by the ships or subjects of one of the parties to the enemies of the other, shall, on any account, be deemed contraband, so as to induce confiscation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such ships and detain them for such length of time as the captors may think necessary, to prevent the inconvenience or damage that might ensue, from their proceeding on their voyage, paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors; and it shall be further allowed to use in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But if the other contracting party will not consent to discontinue the confiscation of contraband goods, then that it be stipulated, that if the master of the vessel stopped, will deliver out the goods charged to be contraband, he shall be admitted to do it, and the vessel shall not in that case be carried into any port; but shall be allowed to proceed on her voyage.

6. That in the same case, when either of the con-

tracting parties shall happen to be engaged in war with any other power, all goods, not contraband, belonging to the subjects of that other power, and shipped in the bottoms of the party hereto, who is not engaged in the war, shall be entirely free. And that to ascertain what shall constitute the blockade of any place or port, it shall be understood to be in such predicament, when the assailing power shall have taken such a station as to expose to imminent danger any ship or ships, that would attempt to sail in or out of the said port; and that no vessel of the party, who is not engaged in the said war, shall be stopped without a material and well-grounded cause; and in such cases justice shall be done, and an indemnification given, without loss of time to the persons aggrieved, and thus stopped without sufficient cause.

7. That no right be stipulated for aliens to hold real property within these States, this being utterly inadmissible by their several laws and policy; but when on the death of any person holding real estate within the territories of one of the contracting parties, such real estate would by their laws descend on a subject or citizen of the other, were he not disqualified by alienage, then he shall be allowed a reasonable time to dispose of the same, and withdraw the proceeds without molestation.

8. That such treaties be made for a term not exceeding ten years from the exchange of ratification.

9. That these instructions be considered as sup-

plementary to those of October 29th, 1783; and not as revoking, except when they contradict them. That where in treaty with a particular nation they can procure particular advantages, to the specification of which we have been unable to descend, our object in these instructions having been to form outlines only and general principles of treaty with many nations, it is our expectation they will procure them, though not pointed out in these instructions; and where they may be able to form treaties on principles which, in their judgment, will be more beneficial to the United States than those herein directed to be made their basis, they are permitted to adopt such principles. That as to the duration of treaties, though we have proposed to restrain them to the term of ten years, yet they are at liberty to extend the same as far as fifteen years with any nation which may pertinaciously insist thereon. And that it will be agreeable to us to have supplementary treaties with France, the United Netherlands and Sweden, which may bring the treaties we have entered into with them as nearly as may be to the principles of those now directed; but that this be not pressed, if the proposal should be found disagreeable.

Resolved, That treaties of amity, or of amity and commerce, be entered into with Morocco, and the Regencies of Algiers, Tunis, and Tripoli, to continue for the same term of ten years, or for a term as much longer as can be procured.

That our Ministers, to be commissioned for treating with foreign nations, make known to the Emperor of Morocco the great satisfaction which Congress feel from the amicable disposition he has shown towards these States, and his readiness to enter into alliance with them. That the occupations of the war, and distance of our situation have prevented our meeting his friendship so early as we wished. But the powers are now delegated to them for entering into treaty with him, in the execution of which they are ready to proceed, and that as to the expenses of his Minister, they do therein what is for the honor and interest of the United States.

Resolved, That a commission be issued to Mr. J. Adams, Mr. B. Franklin, and Mr. T. Jefferson, giving powers to them, or the greater part of them, to make and receive propositions for such treaties of amity and commerce, and to negotiate and sign the same, transmitting them to Congress for their final ratification; and that such commission be in force for a term not exceeding two years.

Report of a Conference with the Count de Vergennes on the subject of the Commerce of the United States with France.[1]

The next levee day at Versailles, I meant to bring again under the view of the Count de Vergennes, the whole subject of our commerce with France; but the number of audiences of ambassadors and other ministers, which take place, of course, before mine, and which seldom, indeed, leave me an opportunity of audience at all, prevented me that day. I was only able to ask the Count de Vergennes, as a particular favor, that he would permit me to wait on him some day that week. He did so, and I went to Versailles the Friday following, (the 9th of December). M. de Reyneval was with

[1] TO JOHN JAY.

PARIS, January 2d, 1786.

SIR,—Several conferences and letters having passed between the Count de Vergennes and myself, on the subject of the commerce of this country with the United States, I think them sufficiently interesting to be communicated to Congress. They are stated in the form of a report, and are herein enclosed. The length of this despatch, perhaps, needs apology. Yet I have not been able to abridge it, without omitting circumstances which I thought Congress would rather choose to know. Some of the objects of these conferences present but small hopes for the present, but they seem to admit a possibility of success at some future moment.

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I am, Sir, your most obedient and most humble servant.

The above extract from the report referred to in the preceding letter embraces everything interesting therein, not communicated to the reader in the previous correspondence.

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the Count. Our conversation began with the usual topic; that the trade of the United States had not yet learned the way to France, but continued to centre in England, though no longer obliged by law to go there. I observed, that the real cause of this was to be found in the difference of the commercial arrangements in the two countries; that merchants would not, and could not trade but where there was to be some gain; that the commerce between two countries could not be kept up, but by an exchange of commodities; that, if an American merchant was forced to carry his produce to London, it could not be expected he would make a voyage from thence to France, with the money, to lay it out here; and, in like manner, that if he could bring his commodities, with advantage, to this country, he would not make another voyage to England, with the money, to lay it out there, but would take in exchange the merchandise of this country. The Count de Vergennes agreed to this, and particularly that where there was no exchange of merchandise, there could be no durable commerce; and that it was natural for merchants to take their returns in the port where they sold their cargo. I desired his permission, then, to take a summary view of the productions of the United States, that we might see which of them could be brought here to advantage.

1. Rice. France gets from the Mediterranean a rice not so good indeed, but cheaper than ours. He said that they bought of our rice, but that they

got from Egypt also, rice of a very fine quality. I observed that such was the actual state of their commerce, in that article, that they take little from us. 2. Indigo. They make a plenty in their own colonies. He observed that they did, and that they thought it better than ours. 3. Flour, fish, and provisions of all sorts, they produce for themselves. That these articles might, therefore, be considered as not existing, for commerce, between the United States and the kingdom of France.

I proceeded to those capable of becoming objects of exchange between the two nations. 1. Peltry and furs. Our posts being in the hands of the English, we are cut off from that article. I am not sure even, whether we are not obliged to buy of them, for our own use. When these posts are given up, if ever they are, we shall be able to furnish France with skins and furs, to the amount of two millions of livres, in exchange for her merchandise; but at present, these articles are to be counted as nothing. 2. Potash. An experiment is making whether this can be brought here. We hope it may, but at present it stands for nothing. He observed that it was much wanted in France, and he thought it would succeed. 3. Naval stores. Trials are also making on these, as subjects of commerce with France. They are heavy, and the voyage long. The result, therefore, is doubtful. At present, they are as nothing in our commerce with this country. 4. Whale oil. I told him I had great hopes that the

late diminution of duty would enable us to bring this article, with advantage, to France; that a merchant was just arrived (Mr. Barrett) who proposed to settle at L'Orient, for the purpose of selling the cargoes of this article, and choosing the returns. That he had informed me, that in the first year, it would be necessary to take one-third in money, and the remainder only in merchandise; because the fishermen require, indispensably, some money. But he thought that after the first year, the merchandise of the preceding year, would always produce money for the ensuing one, and that the whole amount would continue to be taken annually afterwards, in merchandise. I added, that though the diminution of duty was expressed to be but for one year, yet I hoped they would find their advantage in renewing and continuing it; for that if they intended really to admit it for one year only, the fishermen would not find it worth while to rebuild their vessels, and to prepare themselves for the business. The Count expressed satisfaction on the view of commercial exchange held up by this article. He made no answer as to the continuance of it; and I did not choose to tell him, at that time, that we should claim its continuance under their treaty with the Hanseatic towns, which fixes this duty for them, and our own treaty, which gives us the rights of the most favored nation. 5. Tobacco. I recalled to the memory of the Count de Vergennes, the letter I had written to him on

this article; and the object of the present conversation being, how to facilitate the exchange of commerciable articles between the two countries, I pressed that of tobacco, in this point of view; observed that France, at present, paid us two millions of livres for this article; that for such portions of it as were bought in London, they sent the money directly there, and for what they bought in the United States, the money was still remitted to London, by bills of exchange; whereas, if they would permit our merchants to sell this article freely, they would bring it here, and take the returns on the spot, in merchandise, not money. The Count observed, that my proposition contained what was doubtless useful, but that the King received on this article, at present, a revenue of twenty-eight millions, which was so considerable, as to render them fearful of tampering with it; that the collection of this revenue by way of Farm, was of very ancient date, and that it was always hazardous to alter arrangements of long standing, and of such infinite combinations with the fiscal system. I answered, that the simplicity of the mode of collection proposed for this article, withdrew it from all fear of deranging other parts of their system; that I supposed they would confine the importation to some of their principal ports, probably not more than five or six; that a single collector in each of these, was the only new officer requisite; that he could get rich himself on six livres a hogshead,

and would receive the whole revenue, and pay it into the treasury, at short hand. M. de Reyneval entered particularly into this part of the conversation, and explained to the Count, more in detail, the advantages and simplicity of it, and concluded by observing to me, that it sometimes happened that useful propositions, though not practicable at one time, might become so at another. I told him that that consideration had induced me to press the matter when I did, because I had understood the renewal of the Farm was then on the carpet, and that it was the precise moment when I supposed that this portion might be detached from the mass of the Farms. I asked Count de Vergennes whether, if the renewal of the Farm was pressing, this article might not be separated, merely in suspense, till government should have time to satisfy themselves on the expediency of renewing it. He said no promises could be made.

In the course of this conversation, he had mentioned the liberty we enjoyed of carrying our fish to the French islands. I repeated to him what I had hinted in my letter, of November the 20th, 1785, that I considered as a prohibition the laying such duties on our fish, and giving such premiums on theirs, as made a difference between their and our fishermen of fifteen livres the quintal, in an article which sold for but fifteen livres. He said it would not have that effect, for two reasons: 1. That their fishermen could not furnish supplies sufficient for

their islands, and, of course, the inhabitants must, of necessity, buy our fish. 2. That from the constancy of our fishery, and the short season during which theirs continued, and also from the economy and management of ours, compared with the expense of theirs, we had always been able to sell our fish, in their islands, at twenty-five livres the quintal, while they were obliged to ask thirty-six livres. (I suppose he meant the livre of the French islands.) That thus, the duty and premium had been a necessary operation on their side, to place the sale of their fish on a level with ours, and that without this, theirs could not bear the competition.

I have here brought together the substance of what was said on the preceding subjects, not pretending to give it verbatim, which my memory does not enable me to do. I have, probably, omitted many things which were spoken, but have mentioned nothing which was not. It was interrupted, at times, with collateral matters. One of these was important. The Count de Vergennes complained, and with a good deal of stress, that they did not find a sufficient dependence on arrangements taken with us. This was the third time too, he had done it; first, in a conversation at Fontainebleau, when he first complained to me of the navigation acts of Massachusetts and New Hampshire; secondly, in his letter of October the 30th, 1785, on the same subject; and now, in the present conversation, wherein he added, as another instance, the case of the Che-

valier de Mezieres, heir of General Oglethorpe, who, notwithstanding that the 11th article of the treaty provides, that the subjects or citizens of either party shall succeed, *ab intestato*, to the lands of their ancestors, within the dominions of the other, had been informed from Mr. Adams, and by me also, that his right of succession to the General's estate in Georgia was doubtful. He observed too, that the administration of justice with us was tardy, insomuch that their merchants, when they had money due to them within our States, considered it as desperate; and that our commercial regulations, in general, were disgusting to them. These ideas were new, serious and delicate. I decided, therefore, not to enter into them at that moment, and the rather, as we were speaking in French, in which language I did not choose to hazard myself. I withdrew from the objections of the tardiness of justice with us, and the disagreeableness of our commercial regulations, by a general observation, that I was not sensible they were well founded. With respect to the case of the Chevalier de Mezieres, I was obliged to enter into some explanations. They related chiefly to the legal operation of our Declaration of Independence, to the undecided question whether our citizens and British subjects were thereby made aliens to one another, to the general laws as to conveyances of land to aliens, and the doubt whether an act of the Assembly of Georgia might not have been passed, to confiscate General Oglethorpe's property, which

would of course prevent its devolution on any heir. Mr. Reyneval observed, that in this case, it became a mere question of fact, whether a confiscation of these lands had taken place before the death of General Oglethorpe, which fact might be easily known by inquiries in Georgia, where the possessions lay. I thought it very material, that the opinion of this court should be set to rights on these points. On my return, therefore, I wrote the following observations on them, which, the next time I went to Versailles, (not having an opportunity of speaking to the Count de Vergennes,) I put into the hands of M. Reyneval, praying him to read them, and to ask the favor of the Count to do the same.

Explanations on some of the subjects of conversation which I had the honor of having with his Excellency, the Count de Vergennes, when I was last at Versailles.

The principal design of that conversation was, to discuss those articles of commerce which the United States could spare, which are wanted in France, and if received there on a convenient footing, would be exchanged for the productions of France. But in the course of the conversation, some circumstances were incidentally mentioned by the Count de Vergennes, which induced me to suppose he had received impressions, neither favorable to us, nor derived from perfect information.

The case of the Chevalier de Mezieres was supposed to furnish an instance of our disregard to

treaties; and the event of that case was inferred from opinions supposed to have been given by Mr. Adams and myself. This is ascribing a weight to our opinions, to which they are not entitled. They will have no influence on the decision of the case. The judges in our courts, would not suffer them to be read. Their guide is the law of the land, of which law its treaties make a part. Indeed, I know not what opinion Mr. Adams may have given on the case. And, if any be imputed to him derogatory of our regard to the treaty with France, I think his opinion has been misunderstood. With respect to myself, the doubts which I expressed to the Chevalier de Mezieres, as to the success of his claims, were not founded on any question whether the treaty between France and the United States would be observed. On the contrary, I venture to pronounce that it will be religiously observed, if his case comes under it. But I doubted whether it would come under the treaty. The case, as I understand it, is this: General Oglethorpe, a British subject, had lands in Georgia. He died since the peace, having devised these lands to his wife. His heirs are the Chevalier de Mezieres, son of his elder sister, and the Marquis de Bellegarde, son of his younger sister. This case gives rise to legal questions, some of which have not yet been decided, either in England or America, the laws of which countries are nearly the same.

1. It is a question under the laws of those countries, whether persons *born before their separation*,

and once completely invested, in both, with the character of natural subjects, can ever become aliens in either? There are respectable opinions on both sides. If the negative be right, then General Oglethorpe having never become an alien, and having devised his lands to his wife, who, on this supposition, also, was not an alien, the devise has transferred the lands to her, and there is nothing left for the treaty to operate on.

2. If the affirmative opinion be right, and the inhabitants of Great Britain and America, *born before the Revolution*, are become aliens to each other, it follows by the laws of both, that the lands which either possessed, within the jurisdiction of the other, became the property of the State in which they are. But a question arises, whether the transfer of the property took place on the Declaration of Independence, or not till an office, or an act of Assembly, had declared the transfer. If the property passed to the State on the Declaration of Independence, then it did not remain in General Oglethorpe, and, of course, at the time of his death, he having nothing, there was nothing to pass to his heirs, and so, nothing for the treaty to operate on.

3. If the property does not pass till declared by an office found by jury, or an act passed by the Assembly, the question then is, whether an office had been found, or an act of Assembly been passed for that purpose, before the peace? If there was, the lands had passed to the State during his life, and

nothing being left in him, there is nothing for his heirs to claim under the treaty.

4. If the property had not been transferred to the State before the peace, either by the Declaration of Independence, or an office, or an act of Assembly, then it remained in General Oglethorpe at the epoch of the peace; and it will be insisted, no doubt, that, by the sixth article of the treaty of peace, between the United States and Great Britain, which forbids future confiscations, General Oglethorpe acquired a capacity of holding and of conveying his lands. He has conveyed them to his wife. But she being an alien, it will be decided by the laws of the land, whether she took them for her own use, or for the use of the State. For it is a general principle of our law, that conveyances to aliens pass the lands to the State; and it may be urged, that though, by the treaty of peace, General Oglethorpe could convey, yet that treaty did not mean to give him a greater privilege of conveyance than natives hold, to wit: a privilege of transferring the property to persons incapable, by law, of taking it. However, this would be a question between the State of Georgia and the widow of General Oglethorpe, in the decision of which the Chevalier de Mezieres is not interested, because, whether she takes the land by the will, for her own use, or for that of the State, it is equally prevented from descending to him: there is neither a conveyance to him, nor a succession *ab intestato* devolving on him, which are the cases provided for

by our treaty with France. To sum up the matter in a few words; if the lands had passed to the State before the epoch of peace, the heirs of General Oglethorpe cannot say they have descended on them, and if they remained in the General at that epoch, the treaty saving them to him, he could convey them away from his heirs, and he has conveyed them to his widow, either for her own use, or for that of the State.

Seeing no event in which, according to the facts stated to me, the treaty could be applied to this case, or could give any right whatever, to the heirs of General Oglethorpe, I advised the Chevalier de Mezieres not to urge his pretensions on the footing of right, nor under the treaty, but to petition the Assembly of Georgia for a grant of these lands. If, in the question between the State and the widow of General Oglethorpe, it should be decided that they were the property of the State, I expected from their generosity, and the friendly disposition in America towards the subjects of France, that they would be favorable to the Chevalier de Mezieres. There is nothing in the preceding observations which would not have applied against the heir of General Oglethorpe, had he been a native citizen of Georgia, as it now applies against him, being a subject of France. The treaty has placed the subjects of France on a footing with natives, as to conveyances and descent of property. There was no occasion for the Assemblies to pass laws on this subject; the treaty being a law, as I conceive, superior to those of particular

Assemblies, and repealing them, when they stand in the way of its operations.

The supposition that the treaty was disregarded on our part, in the instance of the acts of Assembly of Massachusetts and New Hampshire, which made a distinction between natives and foreigners, as to the duties to be paid on commerce, was taken notice of in the letter of November the 20th, which I had the honor of addressing to the Count de Vergennes. And while I express my hopes that, on a revision of these subjects, nothing will be found in them derogatory from either the letter or spirit of our treaty, I will add assurances that the United States will not be behindhand in going beyond both, whenever occasions shall offer of manifesting their sincere attachment to this country.

I will pass on to the observation, that our commercial regulations are difficult, and repugnant to the French merchants. To detail these regulations minutely, as they exist in every State, would be beyond my information. A general view of them, however, will suffice, because the States differ little in their several regulations. On the arrival of a ship in America, her cargo must be reported at the proper office. The duties on it are to be paid. These are commonly from two and a half to five per cent. on its value. On many articles, the value of which is tolerably uniform, the precise sum is fixed by law. A tariff of these is presented to the importer, and he can see what he has to pay, as well

as the officer. For other articles, the duty is such a per cent. on their value. That value is either shown by the invoice, or by the oath of the importer. This operation being once over, and it is a very short one, the goods are considered as entered, and may then pass through the whole thirteen States without their being ever more subject to a question, unless they be reshipped. Exportation is still more simple; because, as we prohibit the exportation of nothing, and very rarely lay a duty on any article of export, the State is little interested in examining outward-bound vessels. The captain asks a clearance for his own purposes. As to the operations of internal commerce, such as matters of exchange, of buying, selling, bartering, etc., our laws are the same as the English. If they have been altered in any instance, it has been to render them more simple.

Lastly, as to the tardiness of the administration of justice with us, it would be equally tedious and impracticable for me to give a precise account of it in every State. But I think it probable that it is much on the same footing through all the States, and that an account of it in any one of them may found a general presumption of it in the others. Being best acquainted with its administration in Virginia, I shall confine myself to that. Before the Revolution, a judgment could not be obtained under eight years in the Supreme Court, where the suit was in the department of the common law, which department embraces about nine-tenths of the subject of

legal contestation. In that of the chancery, from twelve to twenty years were requisite. This did not proceed from any vice in the laws, but from the indolence of the judges appointed by the King; and these judges holding their office during his will only, he could have reformed the evil at any time. This reformation was among the first works of the legislature after our independence. A judgment can now be obtained in the Supreme Court in one year at the common law, and in about three years in the chancery. But more particularly to protect the commerce of France, which, at that moment, was considerable with us, a law was passed, giving all suits wherein a foreigner was a party, a privilege to be tried immediately, on the return of his process, without waiting till those of natives, which stand before them, shall have been decided on. Out of this act, however, the British stand excluded by a subsequent one. This, with its causes, must be explained. The British army, after ravaging the State of Virginia, had sent off a very great number of slaves to New York. By the seventh article of the treaty of peace, they stipulated not to carry away any of these. Notwithstanding this, it was known, when they were evacuating New York, that they were carrying away the slaves. General Washington made an official demand of Sir Guy Carleton, that he should cease to send them away. He answered, that these people had come to them under promise of the King's protection, and that that

promise should be fulfilled in preference to the stipulation in the treaty. The State of Virginia, to which nearly the whole of these slaves belonged, passed a law to forbid the recovery of debts due to British subjects. They declared, at the same time, they would repeal the law, if Congress were of opinion they ought to do it. But, desirous that their citizens should be discharging their debts, they afterwards permitted British creditors to prosecute their suits, and to receive their debts in seven equal and annual payments; relying that the demand for the slaves would be either admitted or denied in time to lay their hands on some of the latter payments for reimbursement. The immensity of this debt was another reason for forbidding such a mass of property to be offered for sale under execution at once, as, from the small quantity of circulating money, it must have sold for little or nothing, whereby the creditor would have failed to receive his money, and the debtor would have lost his whole estate without being discharged of his debt. This is the history of the delay of justice in that country in the case of British creditors. As to all others, its administration is as speedy as justice itself will admit. I presume it is equally so in all the other States, and can add, that it is administered in them all, with a purity and integrity of which few counties afford an example.

I cannot take leave altogether of the subjects of this conversation without recalling the attention of the Count de Vergennes to what had been its prin-

cipal drift. This was to endeavor to bring about a direct exchange between France and the United States (without the intervention of a third nation), of those productions with which each could furnish the other. We can furnish to France (because we have heretofore furnished to England), of whale oil and spermaceti, of furs and peltry, of ships and naval stores, and of potash, to the amount of fifteen millions of livres; and the quantities will admit of increase. Of our tobacco, France consumes the value of ten millions more. Twenty-five millions of livres, then, mark the extent of that commerce of exchange, which is, at present, practicable between us. We want, in return, productions and manufactures, not money. If the duties on our produce are light, and the sale free, we shall undoubtedly bring it here, and lay out the proceeds on the spot in the productions and manufactures which we want. The merchants of France will, on their part, become active in the same business. We shall no more think, when we shall have sold our produce here, of making an useless voyage to another country to lay out the money, than we think at present, when we have sold it elsewhere, of coming here to lay out the money. The conclusion is, that there are commodities which form a basis of exchange to the extent of a million of guineas annually; it is for the wisdom of those in power to contrive that the exchange shall be made.

Having put this paper into the hands of Monsieur

Reyneval, we entered into conversation again, on the subject of the Farms, which were now understood to be approaching to a conclusion. He told me, that he was decidedly of opinion, that the interest of the State required the Farm of tobacco to be discontinued, and that he had, accordingly, given every aid to my proposition, which lay within his sphere; that the Count de Vergennes was very clearly of the same opinion, and had supported it strongly with reasons of his own, when he transmitted it to the Comptroller General; but that the Comptroller, in the discussions of this subject which had taken place, besides the objections which the Count de Vergennes had repeated to me, and which are before mentioned, had added, that the contract with the Farmers General was now so far advanced, that the article of tobacco could not be withdrawn from it, without unravelling the whole transaction. Having understood that, in this contract, there was always reserved to the crown a right to discontinue it at any moment, making just reimbursements to the Farmers, I asked M. Reyneval, if the contract should be concluded in its present form, whether it might still be practicable to have it discontinued, as to the article of tobacco, at some future moment. He said it might be possible.

Upon the whole, the true obstacle to this proposition has penetrated, in various ways, through the veil which covers it. The influence of the Farmers General has been heretofore found sufficient to

shake a minister in his office. Monsieur de Calonnes' continuance or dismission, has been thought, for some time, to be on a poise. Were he to shift this great weight, therefore, out of his own scale into that of his adversaries, it would decide their preponderance. The joint interests of France and America would be insufficient counterpoise in his favor.

It will be observed that these efforts to improve the commerce of the United States, have been confined to that branch only which respects France itself, and that nothing passed on the subject of our commerce with the West Indies, except an incidental conversation as to our fish. The reason of this, was no want of a due sense of its importance. Of that, I am thoroughly sensible. But efforts in favor of this branch would, at present, be desperate. To nations with which we have not yet treated, and who have possessions in America, we may offer a free vent of their manufactures in the United States, for a full or modified admittance into those possessions. But to France, we are obliged to give that freedom for a different compensation; to wit, for her aid in effecting our independence. It is difficult, therefore, to say what we have now to offer her, for an admission into her West Indies. Doubtless, it has its price. But the question is, what this would be, and whether worth our while to give it. Were we to propose to give to each other's citizens all the rights of natives, they would, of course, count what they should gain by

this enlargement of right, and examine whether it would be worth to them as much as their monopoly of their West India commerce. If not, that commercial freedom which we wish to preserve, and which, indeed, is so valuable, leaves us little to offer. An expression in my letter to the Count de Vergennes, of November the 20th, wherein I hinted that both nations might, perhaps, come into the opinion, that the condition of *natives* might be a better ground of intercourse for their citizens, than that of the *most favored* nation, was intended to furnish an opportunity to the minister of parleying on that subject, if he was so disposed, and to myself, of seeing whereabouts they would begin, that I might communicate it to Congress, and leave them to judge of the expediency of pursuing the subject. But no overtures have followed; for I have no right to consider as coming from the minister, certain questions which were, very soon after, proposed to me by an individual. It sufficiently accounts for these questions, that that individual had written a memorial on the subject, for the consideration of the minister, and might wish to know what we would be willing to do. The idea that I should answer such questions to him, is equally unaccountable, whether we suppose them originating with himself, or coming from the minister. In fact, I must suppose them to be his own; and I transmit them, only that Congress may see what one Frenchman, at least, thinks on the subject.

If we can obtain from Great Britain reasonable conditions of commerce, (which, in my idea, must forever include an admission into her islands), the freest ground between these two nations would seem to be the best. But if we can obtain no equal terms from her, perhaps Congress might think it prudent, as Holland has done, to connect us unequivocally with France. Holland has purchased the protection of France. The price she pays, is *aid in time of war.* It is interesting for us to purchase a free commerce with the French islands. But whether it is best to pay for it, by *aids in war, or by privileges in commerce, or not to purchase it at all,* is the question.

Answers by Mr. Jefferson, to Questions addressed to him by Monsieur de Meusnier, author of that part of the Encyclopédie Méthodique, entitled Economie Politique et Diplomatique.

1. What has led Congress to determine, that the concurrence of seven votes is requisite in questions which, by the Confederation, are submitted to the decision of a majority of the United States, in Congress assembled?

The ninth article of Confederation, section six, evidently establishes three orders of questions in Congress. 1. The greater ones, which relate to making peace or war, alliances, coinage, requisitions for money, raising military force, or appointing its commander-in-chief. 2. The lesser ones, which

comprehend all other matters submitted by the Confederation to the federal head. 3. The single question of adjourning from day to day. This gradation of questions is distinctly characterized by the article.

In proportion to the magnitude of these questions, a greater concurrence of the voices composing the Union was thought necessary. Three degrees of concurrence, well distinguished by substantial circumstances, offered themselves to notice. 1. A concurrence of a *majority of the people* of the Union. It was thought that this would be insured, by requiring the voices of nine States; because, according to the loose estimates which had been made of the inhabitants, and the proportion of them which were free, it was believed that even the nine smallest would include a majority of the free citizens of the Union. The voices, therefore, of nine States were required in the greater questions. 2. A concurrence of the *majority of the States*. Seven constitute that majority. This number, therefore, was required in the lesser questions. 3. A concurrence of the *majority of Congress*, that is to say, of the States actually present in it. As there is no Congress, when there are not seven States present, this concurrence could never be of less than four States. But these might happen to be the four smallest, which would not include one-ninth part of the free citizens of the Union. This kind of majority, therefore, was entrusted

with nothing but the power of adjourning themselves from day to day.

Here then are three kind of majorities. 1. Of the people. 2. Of the States. 3. Of the Congress: each of which is entrusted to a certain length.

Though the paragraph in question be clumsily expressed, yet it strictly announces its own intentions. It defines with precision, the *greater* questions, for which nine votes shall be requisite. In the *lesser* questions, it then requires a *majority of the United States in Congress assembled:* a term which will apply either to the number seven, as being a *majority of the States*, or to the number four as being a *majority of Congress*. Which of the two kinds of majority, was meant? Clearly, that which would leave a still smaller kind, for the decision of the question of adjournment. The contrary construction would be absurd.

This paragraph, therefore, should be understood, as if it had been expressed in the following terms: "The United States, in Congress assembled, shall never engage in war, etc., but with the consent of nine States: nor determine any other question, but with the consent of a majority of the whole States, except the question of adjournment from day to day, which may be determined by a majority of the States actually present in Congress."

2. How far is it permitted, to bring on the reconsideration of a question which Congress has once determined?

The first Congress which met, being composed mostly of persons who had been members of the legislatures of their respective States, it was natural for them to adopt those rules in their proceedings, to which they had been accustomed in their legislative Houses; and the more so, as these happened to be nearly the same, as having been copied from the same original, those of the British Parliament. One of those rules of proceeding was, that "a question once determined, cannot be proposed, a second time, in the same session." Congress, during their first session, in the autumn of 1774, observed this rule strictly. But before their meeting in the spring of the following year, the war had broken out. They found themselves at the head of that war, in an executive as well as legislative capacity. They found that a rule, wise and necessary for a legislative body, did not suit an executive one, which, being governed by events, must change their purposes as those change. Besides, their session was then to become of equal duration with the war; and a rule, which should render their legislation immutable, during all that period, could not be submitted to. They, therefore, renounced it in practice, and have ever since continued to reconsider their questions freely. The only restraint as yet provided against the abuse of this permission to reconsider, is, that when a question has been decided, it cannot be proposed for reconsideration, but by some one who voted

in favor of the former decision, and declares that he has since changed his opinion. I do not recollect accurately enough, whether it be necessary that his vote should have decided that of his State, and the vote of his State have decided that of Congress.

Perhaps it might have been better, when they were forming the federal Constitution, to have assimilated it, as much as possible, to the particular Constitutions of the States. All of these have distributed the legislative, executive and judiciary powers, into different departments. In the federal Constitution, the judiciary powers are separated from the others; but the legislative and executive are both exercised by Congress. A means of amending this defect has been thought of. Congress having a power to establish what committees of their own body they please, and to arrange among them the distribution of their business, they might, on the first day of their annual meeting, appoint an executive committee, consisting of a member from each State, and refer to them all executive business which should occur during their session; confining themselves to what is of a legislative nature, that is to say, to the heads described in the ninth article, as of the competence of nine States only, and to such other questions as should lead to the establishment of general rules. The journal of this committee, of the preceding day, might be read the next morning in Congress, and considered as approved, unless a vote was demanded on a

particular article, and that article changed. The sessions of Congress would then be short, and when they separated, the Confederation authorizes the appointment of a committee of the States, which would naturally succeed to the business of the executive committee. The legislative business would be better done, because the attention of the members would not be interrupted by the details of execution; and the executive business would be better done, because, business of this nature is better adapted to small, than great bodies. A monarchical head should confide the execution of its will to departments, consisting, each, of a plurality of hands, who would warp that will, as much as possible, towards wisdom and moderation, the two qualities it generally wants. But, a republican head, founding its decrees, originally, in these two qualities, should commit them to a single hand for execution, giving them, thereby, a promptitude which republican proceedings generally want. Congress could not, indeed, confide their executive business to a smaller number than a committee consisting of a member from each State. This is necessary to insure the confidence of the Union. But it would be gaining a great deal, to reduce the executive head to thirteen, and to relieve themselves of those details. This, however, has as yet been the subject of private conversations only.

3. A succinct account of paper money in America?

Previous to the Revolution, most of the States

were in the habit, whenever they had occasion for more money than could be raised immediately by taxes, to issue paper notes or bills, in the name of the State, wherein they promised to pay to the bearer the sum named in the note or bill. In some of the States no time of payment was fixed, nor tax laid to enable payment. In these, the bills depreciated. But others of the States named in the bill the day when it should be paid, laid taxes to bring in money enough for that purpose, and paid the bills punctually, on or before the day named. In these States, paper money was in as high estimation as gold and silver. On the commencement of the late Revolution, Congress had no money. The external commerce of the States being suppressed, the farmer could not sell his produce, and, of course, could not pay a tax. Congress had no resource then but in paper money. Not being able to lay a tax for its redemption, they could only promise that taxes should be laid for that purpose, so as to redeem the bills by a certain day. They did not foresee the long continuance of the war, the almost total suppression of their exports, and other events, which rendered the performance of their engagement impossible. The paper money continued for a twelvemonth equal to gold and silver. But the quantities which they were obliged to emit for the purpose of the war, exceeded what had been the usual quantity of the circulating medium. It began, therefore, to be-

come cheaper, or, as we expressed it, it depreciated, as gold and silver would have done, had they been thrown into circulation in equal quantities. But not having, like them, an intrinsic value, its depreciation was more rapid and greater than could ever have happened with them. In two years, it had fallen to two dollars of paper money for one of silver; in three years, to four for one; in nine months more, it fell to ten for one; and in the six months following, that is to say, by September, 1779, it had fallen to twenty for one.

Congress, alarmed at the consequences which were to be apprehended, should they lose this resource altogether, thought it necessary to make a vigorous effort to stop its further depreciation. They therefore determined, in the first place, that their emissions should not exceed two hundred millions of dollars, to which term they were then nearly arrived; and though they knew that twenty dollars of what they were then issuing, would buy no more for their army than one silver dollar would buy, yet they thought it would be worth while to submit to the sacrifice of nineteen out of twenty dollars, if they could thereby stop further depreciation. They, therefore, published an address to their constituents, in which they renewed their original declarations, that this paper money should be redeemed at dollar for dollar. They proved the ability of the States to do this, and that their liberty would be cheaply bought at that price. The

declaration was ineffectual. No man received the money at a better rate; on the contrary, in six months more, that is, by March, 1780, it had fallen to forty for one. Congress then tried an experiment of a different kind. Considering their former offers to redeem this money at par, as relinquished by the general refusal to take it, but in progressive depreciation, they required the whole to be brought in, declared it should be redeemed at its present value, of forty for one, and that they would give to the holders new bills, reduced in their denomination to the sum of gold or silver, which was actually to be paid for them. This would reduce the nominal sum of the mass in circulation to the present worth of that mass, which was five millions; a sum not too great for the circulation of the States, and which, they therefore hoped, would not depreciate further, as they continued firm in their purpose of emitting no more. This effort was as unavailing as the former. Very little of the money was brought in. It continued to circulate and to depreciate, till the end of 1780, when it had fallen to seventy-five for one, and the money circulated from the French army, being, by that time, sensible in all the States north of the Potomac, the paper ceased its circulation altogether in those States. In Virginia and North Carolina it continued a year longer, within which time it fell to one thousand for one, and then expired, as it had done in the other States, without a single groan. Not a murmur was heard on this

occasion, among the people. On the contrary, universal congratulations took place on their seeing this gigantic mass, whose dissolution had threatened convulsions which should shake their infant confederacy to its centre, quietly interred in its grave. Foreigners, indeed, who do not, like the natives, feel indulgence for its memory, as of a being which has vindicated their liberties, and fallen in the moment of victory, have been loud, and still are loud in their complaints. A few of them have reason; but the most noisy are not the best of them. They are persons who have become bankrupt by unskilful attempts at commerce with America. That they may have some pretext to offer to their creditors, they have bought up great masses of this dead money in America, where it is to be had at five thousand for one, and they show the certificates of their paper possessions, as if they had all died in their hands, and had been the cause of their bankruptcy. Justice will be done to all, by paying to all persons what this money actually cost them, with an interest of six per cent. from the time they received it. If difficulties present themselves in the ascertaining the epoch of the receipt, it has been thought better that the State should lose, by admitting easy proofs, than that individuals, and especially foreigners, should, by being held to such as would be difficult, perhaps impossible.

4. Virginia certainly owed two millions sterling to Great Britain at the conclusion of the war. Some

have conjectured the debt as high as three millions. I think that State owed near as much as all the rest put together. This is to be ascribed to peculiarities in the tobacco trade. The advantages made by the British merchants, on the tobaccos consigned to them, were so enormous, that they spared no means of increasing those consignments. A powerful engine for this purpose, was the giving good prices and credit to the planter, till they got him more immersed in debt than he could pay, without selling his lands or slaves. They then reduced the prices given for his tobacco, so that let his shipments be ever so great, and his demand of necessaries ever so economical, they never permitted him to clear off his debt. These debts had become hereditary from father to son, for many generations, so that the planters were a species of property, annexed to certain mercantile houses in London.

5. The members of Congress are differently paid by different States. Some are on fixed allowances, from four to eight dollars a day. Others have their expenses paid, and a surplus for their time. This surplus is of two, three, or four dollars a day.

6. I do not believe there has ever been a moment, when a single Whig, in any one State, would not have shuddered at the very idea of a separation of their State from the confederacy. The Tories would, at all times, have been glad to see the confederacy dissolved, even by particles at a time,

in hopes of their attaching themselves again to Great Britain.

7. The 11th article of Confederation admits Canada to accede to the Confederation at its own will, but adds, "no other colony shall be admitted to the same, unless such admission be agreed to by nine States." When the plan of April, 1784, for establishing new States was on the carpet, the committee who framed the report of that plan, had inserted this clause, "provided nine States agree to such admission, according to the reservation of the 11th of the articles of Confederation." It was objected, 1. That the words of the confederation, "no other colony," could refer only to the residuary possessions of Great Britain, as the two Floridas, Nova Scotia, etc., not being already parts of the Union; that the law for "admitting" a new member into the Union, could not be applied to a territory which was already in the Union, as making part of a State which was a member of it. 2. That it would be improper to allow "nine" States to receive a new member, because the same reasons which rendered that number proper now, would render a greater one proper, when the number composing the Union should be increased. They therefore struck out this paragraph and inserted a proviso, that "the consent of so many States, in Congress, shall be first obtained, as may, at the time, be competent;" thus leaving the question, whether the 11th article applies to the admission of new States, to be

decided when that admission shall be asked. See the Journal of Congress of April 20, 1784. Another doubt was started in this debate, viz.: whether the agreement of the nine States, required by the Confederation, was to be made by their legislatures, or by their delegates in Congress? The expression adopted, viz.: "so many States, in Congress, is first obtained," show what was their sense of this matter. If it be agreed that the 11th article of the Confederation is not to be applied to the admission of these new States, then it is contended that their admission comes within the 13th article, which forbids "any alteration, unless agreed to in a Congress of the United States, and afterwards confirmed by the legislatures of every State." The independence of the new States of Kentucky and Franklin, will soon bring on the ultimate decision of all these questions.

8. Particular instances whereby the General Assembly of Virginia have shown that they considered the ordinance called their Constitution, as every other ordinance, or act of the legislature, subject to be altered by the legislature for the time being.

1. The convention which formed that Constitution, declared themselves to be the House of Delegates, during the term for which they were originally elected, and in the autumn of the year met the Senate, elected under the new Constitution, and did legislative business with them. At this time, there were malefactors in the public jail, and

there was as yet no court established for their trial. They passed a law, appointing certain members by name, who were then members of the Executive Council, to be a court for the trial of these malefactors, though the Constitution had said, in express words, that no person should exercise the powers of more than one of the three departments, legislative, executive, and judiciary at the same time. This proves that the very men who had made that Constitution understood that it would be alterable by the General Assembly. This court was only for that occasion. When the next General Assembly met, after the election of the ensuing year, there was a new set of malefactors in the jail, and no court to try them. This Assembly passed a similar law to the former, appointing certain members of the Executive Council to be an occasional court for this particular case. Not having the journals of Assembly by me, I am unable to say whether this measure was repealed afterwards. However, they are instances of *executive* and *judiciary* powers exercised by the same persons, under the authority of a law made in contradiction to the Constitution.

2. There was a process depending in the ordinary courts of justice, between two individuals of the names of Robinson and Fauntleroy, who were relations, of different descriptions, to one Robinson, a British subject, lately dead. Each party claimed a right to inherit the lands of the

decedent according to the laws. Their right should by the Constitution have been decided by the judiciary courts; and it was actually depending before them. One of the parties petitioned the Assembly (I think it was in the year 1782), who passed a law deciding the right in his favor. In the following year, a Frenchman, master of a vessel, entered into port without complying with the laws established in such cases, whereby he incurred the forfeitures of the law to any person who would sue for them. An individual instituted a legal process to recover these forfeitures according to the law of the land. The Frenchman petitioned the Assembly, who passed a law deciding the question of forfeiture in his favor. These acts are occasional repeals of that part of the Constitution which forbids the same persons to exercise *legislative* and *judiciary* powers at the same time.

The Assembly is in the habitual exercise, during their sessions, of directing the Executive what to do. There are few pages of their journals which do not show proofs of this, and consequently instances of the *legislative* and *executive* powers exercised by the same persons at the same time. These things prove that it has been the uninterrupted opinion of every Assembly, from that which passed the ordinance called the Constitution down to the present day, that their acts may control that ordinance, and, of course, that the State of Virginia has no fixed Constitution at all.

THE succeeding observations were made by Mr. Jefferson on an article entitled "Etats Unis," prepared for the Encyclopédie Méthodique, and submitted to him before its publication.

Page 8. The malefactors sent to America were not sufficient in number to merit enumeration, as one class out of three which peopled America. It was at a late period of their history that this practice began. I have no book by me which enables me to point out the date of its commencement. But I do not think the whole number sent would amount to two thousand, and being principally men, eaten up with disease, they married seldom and propagated little. I do not suppose that themselves and their descendants are at present four thousand, which is little more than one-thousandth part of the whole inhabitants.

Indented servants formed a considerable supply. These were poor Europeans, who went to America to settle themselves. If they could pay their passage, it was well. If not, they must find means of paying it. They were at liberty, therefore, to make an agreement with any person they chose, to serve him such a length of time as they agreed on, upon condition that he would repay to the master of the vessel the expenses of their passage. If, being foreigners, unable to speak the language, they did not know how to make a bargain for themselves, the captain of the vessel contracted for them with such persons as he could. This contract was by deed indented, which occasioned them to be called

indented servants. Sometimes they were called redemptioners, because by their agreement with the master of the vessel, they could *redeem* themselves from his power by paying their passage, which they frequently effected by hiring themselves on their arrival, as is before mentioned. In some States I know that these people had a right of marrying themselves without their master's leave, and I and suppose they had that right everywhere. I did not know that in any of the States they demanded so much as a week for every day's absence without leave. I suspect this must have been at a very early period, while the governments were in the hands of the first emigrants, who, being mostly laborers, were narrow-minded and severe. I know that in Virginia the laws allowed their servitude to be protracted only two days for every one they were absent without leave. So mild was this kind of servitude, that it was very frequent for foreigners, who carried to America money enough not only to pay their passage, but to buy themselves a farm, to indent themselves to a master for three years for a certain sum of money, with a view to learn the husbandry of the country. I will here make a general observation. So desirous are the poor of Europe to get to America, where they may better their condition, that being unable to pay their passage, they will agree to serve two or three years on their arrival here, rather than not go. During the time of that service, they are better fed, better clothed, and

have lighter labor, than while in Europe. Continuing to work for hire a few years longer, they buy a farm, marry, and enjoy all the sweets of a domestic society of their own. The American governments are censured for permitting this species of servitude, which lays the foundation of the happiness of these people. But what should these governments do? Pay the passage of all those who choose to go into their country? They are not able; nor were they able, do they think the purchase worth the price? Should they exclude these people from their shores? Those who know their situations in Europe and America, would not say that this is the alternative which humanity dictates. It is said that these people are deceived by those who carry them over. But this is done in Europe. How can the American governments prevent it? Should they punish the deceiver? It seems more incumbent on the European government, where the act is done, and where a public injury is sustained from it. However, it is only in Europe that this deception is heard of. The individuals are generally satisfied in America with their adventure, and very few of them wish not to have made it. I must add that the Congress have nothing to do with this matter. It belongs to the legislatures of the several States.

Page 26. "Une puissance, en effet," etc. The account of the settlement of the colonies, which precedes this paragraph, shows that that settlement was not made by public authority, or at the public

expense of England; but by the exertions, and at the expense of individuals. Hence it happened, that their constitutions were not formed systematically, but according to the circumstances which happened to exist in each. Hence, too, the principles of the political connection between the old and new countries, were never settled. That it would have been advantageous to have settled them, is certain; and, particularly, to have provided a body which should decide, in the last resort, all cases wherein both parties were interested. But it is not certain that that right would have been given, or ought to have been given to the Parliament; much less, that it resulted to the Parliament, without having been given to it expressly. Why was it necessary that there should have been a body to decide in the last resort? Because, it would have been for the good of both parties. But this reason shows it ought not to have been the Parliament, since that would have exercised it for the good of one party only.

Page 105. As to the change of the 8th article of Confederation, for quoting requisitions of money on the States.

By a report of the Secretary of Congress, dated January the 4th, 1786, eight States had then acceded to the proposition; to wit, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina.

Congress, on the 18th of April, 1783, recommended to the States to invest them with a power,

for twenty-five years, to levy an impost of five per cent. on all articles imported from abroad. New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, and South Carolina, had complied with this, before the 4th of January, 1786. Maryland had passed an act for the same purpose; but, by a mistake in referring to the date of the recommendation of Congress, the act failed of its effect. This was therefore to be rectified. Since the 4th of January, the public papers tell us that Rhode Island has complied fully with this recommendation. It remains still for New York and Georgia to do it. The exportations of America, which are tolerably well known, are the best measure for estimating the importations. These are probably worth about twenty millions of dollars, annually. Of course, this impost will pay the interest of a debt to that amount. If confined to the foreign debt, it will pay the whole interest of that, and sink half a million of the capital, annually. The expenses of collecting this impost, will probably be six per cent. on its amount, this being the usual expense of collection in the United States. This will be sixty thousand dollars.

On the 30th of April, 1784, Congress recommended to the States, to invest them with a power, for fifteen years, to exclude from their ports the vessels of all nations, not having a treaty of commerce with them; and to pass, as to all nations, an act on the principles of the British navigation act.

Not that they were disposed to carry these powers into execution, with such as would meet them in fair and equal arrangements of commerce; but that they might be able to do it against those who should not. On the 4th of January, 1786, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Maryland, Virginia, and North Carolina, had done it. It remained for New Jersey, Delaware, South Carolina, and Georgia, to do the same.

In the meantime, the general idea has advanced before the demands of Congress, and several States have passed acts, for vesting Congress with the whole regulation of their commerce, reserving the revenue arising from these regulations, to the disposal of the State in which it is levied. The States which, according to the public papers, have passed such acts, are New Hampshire, Massachusetts, Rhode Island, New Jersey, Delaware, and Virginia; but the Assembly of Virginia, apprehensive that this disjointed method of proceeding may fail in its effect, or be much retarded, passed a resolution on the 21st of January, 1786, appointing commissioners to meet others from the other States, whom they invite into the same measure, to digest the form of an act, for investing Congress with such powers over their commerce, as shall be thought expedient, which act is to be reported to their several Assemblies, for their adoption. This was the state of the several propositions relative to the impost, and regulation of commerce, at the date of our latest advices from America.

Page 125. The General Assembly of Virginia, at their session in 1785, passed an act, declaring that the district, called Kentucky, shall be a separate and independent State, on these conditions: 1. That the people of that district shall consent to it. 2. That Congress shall consent to it, and shall receive them into the federal Union. 3. That they shall take on themselves a proportionable part of the public debt of Virginia. 4. That they shall confirm all titles to lands within their district, made by the State of Virginia, before their separation.

Page 139. It was in 1783, and not in 1781, that Congress quitted Philadelphia.

Page 140. "Le Congres qui se trouvoit à la portée des rebelles fut effrayé." I was not present on this occasion, but I have had relations of the transaction from several who were. The conduct of Congress was marked with indignation and firmness. They received no propositions from the mutineers. They came to the resolutions, which may be seen in the journals of June the 21st, 1783, then adjourned regularly, and went through the body of the mutineers to their respective lodgings. The measures taken by Dickinson, the President of Pennsylvania, for punishing this insult, not being satisfactory to Congress, they assembled, nine days after, at Princeton, in Jersey. The people of Pennsylvania sent petitions declaring their indignation at what had passed, their devotion to the federal head, and their dispositions to protect it, and praying them to

return; the legislature, as soon as assembled, did the same thing; the Executive, whose irresolution had been so exceptionable, made apologies. But Congress were now removed; and, to the opinion that this example was proper, other causes were now added, sufficient to *prevent* their return to Philadelphia.

Page 155. l. 2. Omit "La detta actuelle," etc.

And also, "Les details," etc., etc., to the end of the paragraph, "celles des États Unis;" page 156. The reason is, that these passages seem to suppose, that the several sums emitted by Congress, at different times, amounting nominally to two hundred millions of dollars, had been actually worth that at the time of emission, and, of course, that the soldiers and others had received that sum from Congress. But nothing is further from the truth. The soldier, victualler, or other persons who received forty dollars for a service, at the close of the year 1779, received, in fact, no more than he who received one dollar for the same service, in the year 1775, or 1776; because, in those years, the paper money was at par with silver; whereas, by the close of 1779, forty paper dollars were worth but one of silver, and would buy no more of the necessaries of life. To know what the moneys emitted by Congress were worth to the people, at the time they received them, we will state the date and amount of every several emission, the depreciation of paper money at the time, and the real worth of the emission in silver or gold.

Emission.		Sum Emitted.	Depreciation.	Worth of the sum emitted, in silver dollars.
1775.	June 23	2,000,000	.....	2,000,000
"	November 29	3,000,000	.....	3,000,000
1776.	February 17	4,000,000	.....	4,000,000
"	August 13	5,000,000	.....	5,000,000
1777.	May 20	5,000,000	$2\frac{2}{3}$	1,877,273
"	August 15	1,000,000	3	$333,333\frac{1}{3}$
"	November 7	1,000,000	4	250,000
"	December 3	1,000,000	4	250,000
1778.	January 8	1,000,000	4	250,000
"	January 22	2,000,000	4	500,000
"	February 16	2,000,000	5	400,000
"	March 5	2,000,000	5	400,000
"	April 4	1,000,000	6	$166,666\frac{2}{3}$
"	April 11	5,000,000	6	$833,333\frac{1}{3}$
"	April 18	500,000	6	$83,333\frac{1}{3}$
"	May 22	5,000,000	5	1,000,000
"	June 20	5,000,000	4	1,250,000
"	July 30	5,000,000	$4\frac{1}{2}$	1,111,111
"	September 5	5,000,000	5	1,000,000
"	September 26	10,000,100	5	2,000,020
"	November 4	10,000,100	6	$1,666,683\frac{1}{3}$
"	December 14	10,000,100	6	$1,666,683\frac{1}{3}$
1779.	January 14	[1]24,447,620	8	$3,055,952\frac{1}{2}$
"	February 3	5,000,160	10	500,016
"	February 12	5,000,160	10	500,016
"	April 2	5,000,160	17	294,127
"	May 5	10,000,100	24	$416,670\frac{5}{6}$
"	June 4	10,000,100	20	500,005
"	July 17	15,000,280	20	750,014
"	September 17	15,000,260	24	$625,010\frac{5}{6}$
"	October 14	5,000,180	30	$166,672\frac{2}{3}$
"	November 17	10,050,540	$38\frac{1}{2}$	261,053
"	November 29	10,000,140	$38\frac{1}{2}$	259,743
		200,000,000		$36,367,719\frac{5}{6}$

[1] The sum actually voted was 50,000,400, but part of it was for exchange of old bills, without saying how much. It is presumed that these exchanges absorbed $25,552,780, because the remainder, 24,447,620, with all the other emissions preceding September 2, 1779, will amount to 159 948,880, the sum which Congress declared to be then in circulation.

Thus, it appears, that the two hundred millions of dollars, emitted by Congress, were worth, to those who received them, but about thirty-six millions of silver dollars. If we estimate at the same value, the like sum of two hundred millions, supposed to have been emitted by the States, and reckon the federal debt, foreign and domestic, at about forty-three millions, and the State debts at about twenty-five millions, it will form an amount of one hundred and forty millions of dollars, or seven hundred and thirty-five millions of livres, Tournois, the total sum which the war has cost the inhabitants of the United States. It continued eight years, from the battle of Lexington to the cessation of hostilities in America. The annual expense, then, was about seventeen millions and five hundred thousand dollars, while that of our enemies was a greater number of guineas.

It will be asked, how will the two masses of Continental and of State money have cost the people of the United States seventy-two millions of dollars, when they are to be redeemed, now, with about six millions? I answer, that the difference, being sixty-six millions, has been lost on the paper bills, separately, by the successive holders of them. Every one, through whose hands a bill passed, lost on that bill what it lost in value, during the time it was in his hands. This was a real tax on him; and in this way, the people of the United States actually contributed those sixty-six millions of dollars, during the war, and by a mode of taxation the

most oppressive of all, because the most unequal of all.

Page 166; bottom line. Leave out "Et c'est une autre economie," etc. The reason of this, is, that in 1784, purchases of lands were to be made of the Indians, which were accordingly made. But in 1785, they did not propose to make any purchase. The money desired in 1785, five thousand dollars, was probably to pay agents residing among the Indians, or balances of the purchases of 1784. These purchases will not be made every year; but only at distant intervals, as our settlements are extended; and it may be regarded as certain, that not a foot of land will ever be taken from the Indians, without their own consent. The sacredness of their rights, is felt by all thinking persons in America, as much as in Europe.

Page 170. Virginia was quotaed the highest of any State in the Union. But during the war, several States appear to have paid more, because they were free from the enemy, whilst Virginia was cruelly ravaged. The requisition of 1784, was so quotaed on the several States, as to bring up their arrearages; so that when they should have paid the sums then demanded, all would be on an equal footing. It is necessary to give a further explanation of this requisition. The requisitions of one million and two hundred thousand dollars, of eight millions, and two millions, had been made during the war, as an experiment, to see whether,

in that situation, the States could furnish the necessary supplies. It was found they could not. The money was thereupon obtained by loans in Europe; and Congress meant, by their requisition of 1784, to abandon the requisitions of one million and two hundred thousand dollars, and of two millions, and also one-half of the eight millions. But as all the States, almost, had made some payments in part of that requisition, they were obliged to retain such a proportion of it, as would enable them to call for equal contributions from all the others.

Page 170. I cannot say how it has happened, that the debt of Connecticut is greater than that of Virginia. The latter is the richest in productions, and, perhaps, made greater exertions to pay for her supplies in the course of the war.

Page 172. "Les Americains sevant aprés une banqueroute," etc. The objections made to the United States, being here condensed together in a short compass, perhaps, it would not be improper to condense the answers in as small a compass, in some such form as follows. That is, after the words "aucun espoir," add, "But to these charges it may be justly answered, that those are no bankrupts who acknowledge the sacredness of their debts, in their just and real amount, who are able, within a reasonable time, to pay them, and who are actually proceeding in that payment; that they furnish, in fact, the supplies necessary for the support of their government; that their officers and soldiers

are satisfied, as the interest of their debt is paid regularly, and the principal is in a course of payment; that the question, whether they fought ill, should be asked of those who met them at Bunker's Hill, Bennington, Stillwater, King's Mountain, the Cowpens, Guilford, and the Eutaw. And that the charges of ingratitude, madness, infidelity and corruption, are easily made by those to whom falsehoods cost nothing; but that no instances, in support of them, have been produced, or can be produced."

Page 187. "Les officiérs et les soldats ont eté payés," etc. The balances due to the officers and soldiers have been ascertained, and a certificate of the sum given to each; on these, the interest is regularly paid; and every occasion is seized of paying the principal, by receiving these certificates as money, whenever public property is sold, till a more regular and effectual method can be taken, for paying the whole.

Page 191. "Quoique la loi dont nous parlons, ne s'observe plus en Angleterre." "An alien born may purchase lands or other estates, but not for his own use; for the King is thereupon entitled to them." "Yet an alien may acquire a property in goods, money and other personal estate, or may hire a house for his habitation. For this is necessary for the advancement of trade." "Also, an alien may bring an action concerning personal property, and may make a will, and dispose of his personal

estate." "When I mention these rights of an alien, I must be understood of alien *friends* only, or such whose countries are in peace with ours; for alien *enemies* have no rights, no privileges, unless by the King's special favor, during the time of war." Blackstone, B. 1. c. 10, page 372. "An alien *friend* may have personal actions, but not real; an alien *enemy* shall have neither real, personal, or mixed actions. The reason why an alien *friend* is allowed to maintain a personal action, is, because he would otherwise be incapacitated to merchandise, which may be as much to our prejudice as his." Cunningham's Law Dict., title, Aliens. The above is the clear law of England, practiced from the earliest ages to this day, and never denied. The passage quoted by M. de Meuisnier from 2 Blackstone, c. 26, is from his chapter, "Of title to things *personal by occupancy*." The word "personal," shows, that nothing in this chapter relates to lands, which are *real* estate; and, therefore, this passage does not contract the one before quoted from the same author, (1 Bl. c. 10.) which says, that the lands of an alien belong to the King. The words, "of title by *occupancy*," show, that it does not relate to *debts*, which, being a moral existence only, cannot be the subject of *occupancy*. Blackstone, in this passage, (B. 2. c. 26.) speaks only of personal goods of an alien, which another may find, and seize as prime occupant.

Page 193. "Le remboursement presentera des

difficultés des sommes considerables," etc. There is no difficulty nor doubt on this subject. Every one is sensible how this is to be ultimately settled. Neither the British creditor, nor the State, will be permitted to lose by these payments. The debtor will be credited for what he paid, according to what it was really worth at the time he paid it, and he must pay the balance. Nor does he lose by this; for if a man who owed one thousand dollars to a British merchant, paid eight hundred paper dollars into the treasury, when the depreciation was at eight for one, it is clear he paid but one hundred real dollars, and must now pay nine hundred. It is probable, he received those eight hundred dollars for one hundred bushels of wheat, which were never worth more than one hundred silver dollars. He is credited, therefore, the full worth of his wheat. The equivoque is in the use of the word "dollar."

Page 226. "Qu' on abolisse les privileges du clergé." This privilege, originally allowed to the clergy, is now extended to every man, and even to women. It is a right of exemption from capital punishment, for the first offence, in most cases. It is, then, a pardon by the law. In other cases, the Executive gives the pardon. But when laws are made as mild as they should be, both those pardons are absurd. The principle of Beccaria is sound. Let the legislators be merciful, but the executors of the law inexorable. As the term "privileges du clergé" may be understood by for-

eigners, perhaps, it will be better to strike it out here, and substitute the word "pardon."

Page 239. "Les commissaries venlent," etc. Manslaughter is the killing a man with design, but in a sudden gust of passion, and where the killer has not had time to cool. The first offence is not punished capitally, but the second is. This is the law of England and of all the American States; and is not now a new proposition. Those laws have supposed that a man, whose passions have so much dominion over him, as to lead him to repeated acts of murder, is unsafe to society: that it is better he should be put to death by the law, than others, more innocent than himself, on the movements of his impetuous passions.

Ibid. "Mal-aisé d' indiquer la nuance precise," etc. In forming a scale of crimes and punishments, two considerations have principal weight. 1. The atrocity of the crime. 2. The peculiar circumstances of a country, which furnish greater temptations to commit it, or greater facilities for escaping detection. The punishment must be heavier, to counterbalance this. Were the first the only consideration, all nations would form the same scale. But, as the circumstances of a country have influence on the punishment, and no two countries exist precisely under the same circumstances, no two countries will form the same scale of crimes and punishments. For example; in America, the inhabitants let their horses go at large, in the unin-

closed lands, which are so extensive, as to maintain them altogether. It is easy, therefore, to steal them, and easy to escape. Therefore, the laws are obliged to oppose these temptations with a heavier degree of punishment. For this reason, the stealing of a horse in America, is punished more severely than stealing the same value in any other form. In Europe, where horses are confined so securely, that it is impossible to steal them, that species of theft need not be punished more severely than any other. In some countries of Europe, stealing fruit from trees is punished capitally. The reason is, that it being impossible to lock fruit trees up in coffers, as we do our money, it is impossible to oppose physical bars to this species of theft. Moral ones are, therefore, opposed by the laws. This, to an unreflecting American, appears the most enormous of all the abuses of power; because, he has been used to see fruits hanging in such quantities, that, if not taken by men, they would rot: he has been used to consider them, therefore, as of no value, and as not furnishing materials for the commission of a crime. This must serve as an apology for the arrangements of crimes and punishments, in the scale under our consideration. A different one would be formed here; and still different ones in Italy, Turkey, China, etc.

Page 240. "Les officiers Americains," etc., to page 264, "qui le meritoient." I would propose to new model this section, in the following manner.

1. Give a succinct history of the origin and establishment of the Cincinnati. 2. Examine whether, in its present form, it threatens any dangers to the State. 3. Propose the most practicable method of preventing them.

Having been in America, during the period in which this institution was formed, and being then in a situation which gave me opportunities of seeing it, in all its stages, I may venture to give M. de Meusnier materials for the first branch of the preceding distribution of the subject. The second and third, he will best execute himself. I should write its history in the following form:

When, on the close of that war, which established the independence of America, its army was about to be disbanded, the officers, who, during the course of it, had gone through the most trying scenes together, who, by mutual aids and good offices, had become dear to one another, felt with great oppression of mind, the approach of that moment which was to separate them, never, perhaps, to meet again. They were from different States, and from distant parts of the same State. Hazard alone could, therefore, give them but rare and partial occasions of seeing each other. They were, of course, to abandon altogether the hope of ever meeting again, or to devise some occasion which might bring them together. And why not come together on purpose, at stated times? Would not the trouble of such a journey be greatly over-

paid, by the pleasure of seeing each other again, by the sweetest of all consolations, the talking over the scenes of difficulty and of endearment they had gone through? This, too, would enable them to know who of them should succeed in the world, who should be unsuccessful, and to open the purses of all to every laboring brother. This idea was too soothing, not to be cherished in conversation. It was improved into that of a regular association, with an organized administration, with periodical meetings, general and particular, fixed contributions for those who should be in distress, and a badge, by which, not only those who had not had occasion to become personally known, should be able to recognize one another, but which should be worn by their descendants, to perpetuate among them the friendships which had bound their ancestors together.

General Washington was, at that moment, oppressed with the operation of disbanding an army which was not paid, and the difficulty of this operation was increased, by some two or three States having expressed sentiments, which did not indicate a sufficient attention to their payment. He was sometimes present, when his officers were fashioning, in their conversations, their newly proposed society. He saw, the innocence of its origin, and foresaw no effects less innocent. He was, at that time, writing his valedictory letter to the States, which has been so deservedly applauded by the

world. Far from thinking it a moment to multiply the causes of irritation, by thwarting a proposition which had absolutely no other basis but that of benevolence and friendship, he was rather satisfied to find himself aided in his difficulties by this new incident, which occupied, and, at the same time, soothed the minds of the officers. He thought, too, that this institution would be one instrument the more for strengthening the federal bond, and for promoting federal ideas. The institution was formed. They incorporated into it the officers of the French army and navy, by whose sides they had fought, and with whose aid they had finally prevailed, extending it to such grades as they were told might be permitted to enter into it. They sent an officer to France, to make the proposition to them, and to procure the badges which they had devised for their order. The moment of disbanding the army having come, before they could have a full meeting to appoint their President, the General was prayed to act in that office till their first general meeting, which was to be held at Philadelphia, in the month of May following.

The laws of the society were published. Men who read them in their closets, unwarmed by those sentiments of friendship which had produced them, inattentive to those pains which an approaching separation had excited in the minds of the institutors, politicians, who see in everything only the dangers with which it threatens civil society, in

fine, the laboring people, who, shielded by equal laws, had never seen any difference between man and man, but had read of terrible oppressions, which people of their description experience in other countries, from those who are distinguished by titles and badges, began to be alarmed at this new institution. A remarkable silence, however, was observed. Their solicitudes were long confined within the circles of private conversation. At length, however, a Mr. Burke, Chief Justice of South Carolina, broke that silence. He wrote against the new institution, foreboding its dangers, very imperfectly, indeed, because he had nothing but his imagination to aid him. An American could do no more; for to detail the real evils of aristocracy, they must be seen in Europe. Burke's fears were thought exaggerations in America; while in Europe, it is known that even Mirabeau has but faintly sketched the curses of hereditary aristocracy as they are experienced here, and as they would have followed in America, had this institution remained. The epigraph of Burke's pamphlet, was, "Blow ye the trumpet in Zion." Its effect corresponded with its epigraph. This institution became, first, the subject of general conversation. Next, it was made the subject of deliberation in the legislative Assemblies of some of the States. The Governor of South Carolina censured it, in an address to the Assembly of that State. The Assemblies of Massachusetts, Rhode Island, and Pennsylvania, condemned its

principles. No circumstance, indeed, brought the consideration of it expressly before Congress; yet it had sunk deep into their minds. An offer having been made to them, on the part of the Polish order of Divine Providence, to receive some of their distinguished citizens into that order, they made that an occasion to declare, that these distinctions were contrary to the principles of their Confederation.

The uneasiness excited by this institution, had very early caught the notice of General Washington. Still recollecting all the purity of the motives which gave it birth, he became sensible that it might produce political evils, which the warmth of those motives had masked. Add to this, that it was disapproved by the mass of citizens of the Union. This, alone, was reason strong enough, in a country where the will of the majority is the law, and ought to be the law. He saw that the objects of the institution were too light, to be opposed to considerations as serious as these; and that it was become necessary to annihilate it absolutely. On this, therefore, he was decided. The first annual meeting at Philadelphia was now at hand; he went to that, determined to exert all his influence for its suppression. He proposed it to his fellow officers, and urged it with all his powers. It met an opposition which was observed to cloud his face with an anxiety, that the most distressful scenes of the war had scarcely ever produced. It was

canvassed for several days, and, at length, it was no more a doubt what would be its ultimate fate. The order was on the point of receiving its annihilation, by the vote of a great majority of its members. In this moment, their envoy arrived from France, charged with letters from the French officers, accepting with cordiality the proposed badges of union, with solicitations from others to be received into the order, and with notice that their respectable Sovereign had been pleased to recognize it, and permit his officers to wear its badges. The prospect now changed. The question assumed a new form. After the offer made by them, and accepted by their friends, in what words could they clothe a proposition to retract it, which would not cover themselves with the reproaches of levity and ingratitude? which would not appear an insult to those whom they loved? Federal principles, popular discontent, were considerations whose weight was known and felt by themselves. But would foreigners know and feel them equally? Would they so far acknowledge their cogency, as to permit without any indignation, the eagle and ribbon to be torn from their breasts, by the very hands which had placed them there? The idea revolted the whole society. They found it necessary, then, to preserve so much of their institution as might continue to support this foreign branch, while they should prune off every other, which would give offence to their fellow citizens: thus

sacrificing, on each hand, to their friends and to their country.

The society was to retain its existence, its name, its meetings, and its charitable funds: but these last were to be deposited with their respective legislatures. The order was to be no longer hereditary; a reformation, which had been pressed even from this side the Atlantic; it was to be communicated to no new members; the general meetings, instead of annual, were to be triennial only. The eagle and ribbon, indeed, were retained; because they were worn, and they wished them to be worn by their friends who were in a country where they would not be objects of offence; but themselves never wore them. They laid them up in their bureaus with the medals of American Independence, with those of the trophies they had taken, and the battles they had won. But through all the United States, no officer is seen to offend the public eye, with the display of this badge. These changes have tranquilized the American States. Their citizens feel too much interest in the reputation of their officers, and value too much, whatever may serve to recall to the memory of their allies, the moments wherein they formed but one people, not to do justice to the circumstance which prevented a total annihilation of the order. Though they are obliged by a prudent foresight, to keep out everything from among themselves, which might pretend to divide them into orders, and to

degrade one description of men below another, yet they hear with pleasure that their allies, whom circumstances have already placed under these distinctions, are willing to consider it as one, to have aided them in the establishment of their liberties, and to wear a badge which may recall them to their remembrance; and it would be an extreme affliction to them, if the domestic reformation which has been found necessary, if the censures of individual writers, or if any other circumstance should discourage the wearing their badge or lessen its reputation.

This short but true history of the order of the Cincinnati, taken from the mouths of persons on the spot, who were privy to its origin and progress, and who knew its present state, is the best apology which can be made for an insinuation, which appeared to be, and was really, so heterogeneous to the governments in which it was erected.

It should be further considered, that in America no other distinction between man and man had ever been known, but that of persons in office, exercising powers by authority of the laws, and private individuals. Among these last, the poorest laborer stood on equal ground with the wealthiest millionaire, and generally on a more favored one, whenever their rights seemed to jar. It has been seen that a shoemaker or other artisan, removed by the voice of his country from his work-bench into a chair of office, has instantly commanded all

the respect and obedience which the laws ascribe to his office. But of distinction by birth or badge, they had no more idea than they had of the mode of existence in the moon or planets. They had heard only that there were such, and knew that they must be wrong. A due horror of the evils which flow from these distinctions, could be excited in Europe only, where the dignity of man is lost in arbitrary distinctions, where the human species is classed into several stages of degradation, where the many are crushed under the weight of the few, and where the order established, can present to the contemplation of a thinking being, no other picture than that of God Almighty and His angels, trampling under foot the host of the damned. No wonder, then, that the institution of the Cincinnati should be innocently conceived by one order of American citizens, should raise in the other orders, only a slow, temperate, and rational opposition, and should be viewed in Europe as a detestable parricide.

The second and third branches of this subject, no body can better execute than M. de Meusnier. Perhaps it may be curious to him to see how they strike an American mind at present. He shall, therefore, have the ideas of one who was an enemy to the institution from the first moment of its conception, but who was always sensible that the officers neither foresaw nor intended the injury they were doing to their country.

As to the question, then, whether any evil can proceed from the institution at it stands at present, I am of opinion there may. 1. From the meetings. These will keep the officers formed into a body; will continue a distinction between the civil and military, which it would be for the good of the whole to obliterate, as soon as possible; and the military assemblies will not only keep alive the jealousies and fears of the civil government, but give ground for these fears and jealousies. For when men meet together, they will make business if they have none; they will collate their grievances, some real, some imaginary, all highly painted; they will communicate to each other the sparks of discontent; and these may engender a flame which will consume their particular, as well as the general happiness. 2. The charitable part of the institution is still more likely to do mischief, as it perpetuates the dangers apprehended in the preceding clause. For here is a fund provided of permanent existence. To whom will it belong? To the descendants of American officers of a certain description. These descendants, then, will form a body, having sufficient interest to keep up an attention to their description, to continue meetings, and perhaps, in some moment, when the political eye shall be slumbering, or the firmness of their fellow citizens relaxed, to replace the insignia of the order and revive all its pretensions. What good can the officers propose which may weigh against

these possible evils? The securing their descendants against want? Why afraid to trust them to the same fertile soil, and the same genial climate, which will secure from want the descendants of their other fellow citizens? Are they afraid they will be reduced to labor the earth for their sustenance? They will be rendered thereby both more honest and happy. An industrious farmer occupies a more dignified place in the scale of beings, whether moral or political, than a lazy lounger, valuing himself on his family, too proud to work, and drawing out a miserable existence, by eating on that surplus of other men's labor, which is the sacred fund of the helpless poor. A pitiful annuity will only prevent them from exerting that industry and those talents which would soon lead them to better fortune.

How are these evils to be prevented? 1. At their first general meeting, let them distribute the funds on hand to the existing objects of their destination, and discontinue all further contributions. 2. Let them declare, at the same time, that their meetings, general and particular, shall thenceforth cease. 3. Let them melt up their eagles and add the mass to the distributable fund, that their descendants may have no temptation to hang them in their buttonholes.

These reflections are not proposed as worthy the notice of M. de Meusnier. He will be so good as to treat the subject in his own way, and nobody has

a better. I will only pray him to avail us of his forcible manner, to evince that there is evil to be apprehended, even from the ashes of this institution, and to exhort the society in America to make their reformation complete; bearing in mind, that we must keep the passions of men on our side, even when we are persuading them to do what they ought to do.

Page 268. "Et en effet la population," etc. Page 270. "Plus de confiance."

To this we answer that no such census of the numbers was ever given out by Congress, nor ever presented to them: and further, that Congress never have, at any time, declared by their vote, the number of inhabitants in their respective States. On the 22d of June, 1775, they first resolved to emit paper money. The sum resolved on was two millions of dollars. They declared, then, that the twelve confederate colonies (for Georgia had not yet joined them) should be pledged for the redemption of these bills. To ascertain in what proportion each State should be bound, the members from each were desired to say, as nearly as they could, what was the number of the inhabitants of their respective States. They were very much unprepared for such a declaration. They guessed, however, as well as they could. The following are the numbers, as they conjectured them, and the consequent apportionment of the two millions of dollars.

	Inhabitants.	Dollars.
New Hampshire	100,000	82,713
Massachusetts	350,000	289,496
Rhode Island	58,000	47,973
Connecticut	200,000	165,426
New York	200,000	165,426
New Jersey	130,000	107,527
Pennsylvania	300,000	248,139
Delaware	30,000	24,813
Maryland	250,000	206,783
Virginia	400,000	330,852
North Carolina	200,000	165,426
South Carolina	200,000	165,426
	2,418,000	2,000,000

Georgia having not yet acceded to the measures of the other States, was not quotaed; but her numbers were generally estimated at about thirty thousand, and so would have made the whole two million four hundred and forty-eight thousand persons, of every condition. But it is to be observed, that though Congress made this census the basis of their apportionment, yet they did not even give it a place on their journals; much less publish it to the world with their sanction. The way it got abroad was this: As the members declared from their seats the number of inhabitants which they conjectured to be in their State, the secretary of Congress wrote them on a piece of paper, calculated the portion of two millions of dollars to be paid by each, and entered the sum only in the journals. The members, however, for their own satisfaction, and the information of their States, took copies of this enumeration and sent them to their States. From

thence they got into the public papers: and when the English news writers found it answer their purpose to compare this with the enumeration of 1783, as their principle is "to lie boldly that they may not be suspected of lying," they made it amount to three millions one hundred and thirty-seven thousand eight hundred and nine, and ascribed its publication to Congress itself.

In April, 1785, Congress being to call on the States to raise a million and a half of dollars annually for twenty-five years, it was necessary to apportion this among them. The States had never furnished them with their exact numbers. It was agreed, too, that in this apportionment five slaves should be counted as three freemen only. The preparation of this business was in the hands of a committee; they applied to the members for the best information they could give them of the number of their States. Some of the States had taken pains to discover their numbers. Others had done nothing in that way, and, of course, were now where they were in 1775, when their numbers were first called on to declare their members. Under these circumstances, and on the principle of counting three-fifths only of the slaves, the committee apportioned the money among the States, and reported their work to Congress. In this they had assessed South Carolina as having one hundred and seventy thousand inhabitants. The delegate for that State, however, prevailed on Congress to assess them on

the footing of one hundred and fifty thousand only, in consideration of the state of total devastation in which the enemy had left their country. The difference was then laid on the other States, and the following was the result:—

	Inhabitants.	Dollars.
New Hampshire	82,200	52,708
Massachusetts	350,000	224,427
Rhode Island	50,400	32,318
Connecticut	206,000	132,091
New York	200,000	128,243
New Jersey	130,000	83,358
Pennsylvania	320,000	205,189
Delaware	35,000	22,443
Maryland	220,700	141,517
Virginia	400,000	256,487
North Carolina	170,000	109,006
South Carolina	150,000	96,183
Georgia	25,000	16,030
	2,339,300	1,500,000

Still, however, Congress refused to give the enumeration the sanction of a place on their journals, because it was not formed on such evidence as a strict attention to accuracy and truth required. They used it from necessity, because they could get no better rule, and they entered on their journals only the apportionment of money. The members, however, as before, took copies of the enumeration, which was the groundwork of the apportionment, sent them to their States, and thus this second enumeration got into the public papers, and was by the English ascribed to Congress as their declaration of their present numbers. To get at the

real numbers which this enumeration supposes, we must add twenty thousand to the number on which South Carolina was quotaed; we must consider that seven hundred thousand slaves are counted but as four hundred and twenty thousand persons, and add, on that account, two hundred and eighty thousand. This will give us a total of two millions six hundred and thirty-nine thousand three hundred inhabitants of every condition in the thirteen States, being two hundred and twenty-one thousand three hundred more than the enumeration of 1775, instead of seven hundred and ninety-eight thousand five hundred and nine less, which the English papers asserted to be the diminution of members in the United States, according to the confession of Congress themselves.

Page 272. "Comportera peut etre une population de thirty millions."

The territory of the United States contains about a million of square miles, English. There is, in them, a greater proportion of fertile lands than in the British dominions in Europe. Suppose the territory of the United States, then, to attain an equal degree of population with the British European dominions, they will have an hundred millions of inhabitants. Let us extend our views to what may be the population of the two continents of North and South America, supposing them divided at the narrowest part of the isthmus of Panama. Between this line and that of 50° of north latitude,

the northern continent contains about five millions of square miles, and south of this line of division the southern continent contains about seven millions of square miles. I do not pass the 50th degree of northern latitude in my reckoning, because we must draw a line somewhere, and considering the soil and climate beyond that, I would only avail my calculation of it, as a make-weight, to make good what the colder regions within that line may be supposed to fall short in their future population. Here are twelve millions of square miles, then, which, at the rate of population before assumed, will nourish twelve hundred millions of inhabitants, a number greater than the present population of the whole globe is supposed to amount to. If those who propose medals for the resolution of questions, about which nobody makes any question, those who have invited discussion on the pretended problem, Whether the discovery of America was for the good of mankind? if they, I say, would have viewed it only as doubling the numbers of mankind, and, of course, the quantum of existence and happiness, they might have saved the money and the reputation which their proposition has cost them. The present population of the inhabited parts of the United States is of about ten to the square mile; and experience has shown us, that wherever we reach that, the inhabitants become uneasy, as too much compressed, and go off in great numbers to search for vacant country. Within forty years

their whole territory will be peopled at that rate. We may fix that, then, as the term beyond which the people of those States will not be restrained within their present limits; we may fix that population, too, as the limit which they will not exceed till the whole of those two continents are filled up to that mark, that is to say, till they shall contain one hundred and twenty millions of inhabitants. The soil of the country on the western side of the Mississippi, its climate, and its vicinity to the United States, point it out as the first which will receive population from that nest. The present occupiers will just have force enough to repress and restrain the emigrations to a certain degree of consistence. We have seen lately a single person go and decide on a settlement in Kentucky, many hundred miles from any white inhabitant, remove thither with his family and a few neighbors; and though perpetually harassed by the Indians, that settlement in the course of ten years has acquired thirty thousand inhabitants. Its numbers are increasing while we are writing, and the State, of which it formerly made a part, has offered it independence.

Page 280, line five. "Huit des onze Etats," etc. Say, "There were ten States present; six voted unanimously for it, three against it, and one was divided; and seven votes being requisite to decide the proposition affirmatively, it was lost. The voice of a single individual of the State which was divided, or of one of those which were of the nega-

tive, would have prevented this abominable crime from spreading itself over the new country. Thus we see the fate of millions unborn hanging on the tongue of one man, and Heaven was silent in that awful moment! But it is to be hoped it will not always be silent, and that the friends to the rights of human nature will in the end prevail.

"On the 16th of March, 1785, it was moved in Congress that the same proposition should be referred to a committee, and it was referred by the votes of eight States against three. We do not hear that anything further is yet done on it."

Page 286. "L'autorité du Congrés etoit necessaire." The substance of the passage alluded to in the journal of Congress, May the 26th, 1784, is, "That the authority of Congress to make *requisitions* of troops during peace is questioned; that such an authority would be dangerous, combined with the acknowledged one of emitting or borrowing money; and that a few troops only being wanted to guard magazines and garrison the frontier posts, it would be more proper at present to *recommend* than to require."

Mr. Jefferson presents his compliments to M. de Meusnier, and sends him copies of the thirteenth, twenty-third, and twenty-fourth articles of treaty between the King of Prussia and the United States.

If M. de Meusnier proposes to mention the facts of cruelty of which he and Mr. Jefferson spoke

yesterday, the twenty-fourth article will introduce them properly, because they produced a sense of the necessity of that article. These facts are, 1. The death of upwards of eleven thousand American prisoners in one prison ship (the Jersey), and in the space of three years. 2. General Howe's permitting our prisoners, taken at the battle of Germantown, and placed under a guard in the yard of the State House of Philadelphia, to be so long without any food furnished them that many perished with hunger. Where the bodies lay, it was seen that they had eaten all the grass around them within their reach, after they had lost the power of rising, or moving from their place. 3. The second fact was the act of a commanding officer; the first, of several commanding officers, and for so long a time as must suppose the approbation of government. But the following was the act of government itself. During the periods that our affairs seemed unfavorable, and theirs successful, that is to say, after the evacuation of New York, and again, after the taking of Charleston, in South Carolina, they regularly sent our prisoners, taken on the seas and carried to England, to the East Indies. This is so certain, that in the month of November or December, 1785, Mr. Adams having officially demanded a delivery of the American prisoners sent to the East Indies, Lord Caermarthen answered, officially, "That orders were immediately issued for their discharge." M. de Meusnier is at liberty

to quote this fact. 4. A fact to be ascribed not only to the government, but to the Parliament, who passed an act for that purpose in the beginning of the war, was the obliging our prisoners taken at sea, to join them, and fight against their countrymen. This they effected by starving and whipping them. The insult on Captain Stanhope, which happened at Boston last year, was a consequence of this. Two persons, Dunbar and Lowthorp, whom Stanhope had treated in this manner (having particularly inflicted twenty-four lashes on Dunbar), meeting him at Boston, attempted to beat him. But the people interposed and saved him. The fact is referred to in that paragraph of the Declaration of Independence which says, "He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands." This was the most afflicting to our prisoners of all the cruelties exercised on them. The others affected the body only, but this the mind; they were haunted by the horror of having, perhaps, themselves shot the ball by which a father or a brother fell. Some of them had constancy enough to hold out against half allowance of food and repeated whippings. These were generally sent to England, and from thence to the East Indies. One of them escaped from the East Indies, and got back to Paris, where he gave an account of his sufferings to Mr. Adams, who happened to be then at Paris.

M. de Meusnier, where he mentions that the slave law has been passed in Virginia, without the clause of emancipation, is pleased to mention, that neither Mr. Wythe nor Mr. Jefferson was present, to make the proposition they had meditated; from which, people, who do not give themselves the trouble to reflect or inquire, might conclude hastily, that their absence was the cause why the proposition was not made; and, of course, that there were not in the Assembly, persons of virtue and firmness enough to propose the clause for emancipation. This supposition would not be true. There were persons there who wanted neither the virtue to propose, nor talents to enforce the proposition, had they seen that the disposition of the legislature was ripe for it. These worthy characters would feel themselves wounded, degraded, and discouraged by this idea. Mr. Jefferson would therefore be obliged to M. de Meusnier, to mention it in some such manner as this. "Of the two commissioners, who had concerted the amendatory clause for the gradual emancipation of slaves, Mr. Wythe could not be present, he being a member of the judiciary department, and Mr. Jefferson was absent on the legation to France. But there were not wanting in that Assembly, men of virtue enough to propose, and talents to vindicate this clause. But they saw, that the moment of doing it with success was not yet arrived, and that an unsuccessful effort, as too often happens, would only rivet still closer the chains of

bondage, and retard the moment of delivery to this oppressed description of men. What a stupendous, what an incomprehensible machine is man! who can endure toil, famine, stripes, imprisonment, and death itself, in vindication of his own liberty, and, the next moment be deaf to all those motives whose power supported him through his trial, and inflict on his fellow men a bondage, one hour of which is fraught with more misery, than ages of that which he rose in rebellion to oppose. But we must await, with patience, the workings of an overruling Providence, and hope that that is preparing the deliverance of these, our suffering brethren. When the measure of their tears shall be full, when their groans shall have involved heaven itself in darkness, doubtless, a God of justice will awaken to their distress, and by diffusing light and liberality among their oppressors, or, at length, by his exterminating thunder, manifest his attention to the things of this world, and that they are not left to the guidance of a blind fatality."

[The following are the articles of the treaty with Prussia, referred to in the preceding observations.]

Article 13. And in the same case, of one of the contracting parties being engaged in war with any other power, to prevent all the difficulties and misunderstandings, that usually arise respecting the merchandise heretofore called contraband, such as arms, ammunition, and military stores of every kind, no such articles, carried in the vessels, or by

the subjects or citizens of one of the parties, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time, as the captors may think necessary to prevent the inconvenience or damage that might ensue from their proceeding, paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors; and it shall further be allowed to use, in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed, of a vessel stopped for articles heretofore deemed contraband, if the master of the vessel stopped, will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not, in that case, be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

Article 23. If war should arise between the two contracting parties, the merchants of either country, then residing in the other, shall be allowed to remain nine months to collect their debts, and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artisans, manufacturers,

and fishermen, unarmed, and inhabiting unfortified towns, villages, or places, and in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses be burned or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power, by the events of war, they may happen to fall; but if anything is necessary to be taken from them, for the use of such armed force, the same shall be paid for at a reasonable price. And all merchant and trading vessels, employed in exchanging the products of different places, and thereby rendering the necessaries, conveniences, and comforts of human life more easy to be obtained, and more general, shall be allowed to pass free and unmolested. And neither of the contracting parties shall grant, or issue any commission to any private armed vessels, empowering them to take or destroy such trading vessels, or interrupt such commerce.

Article 24. And to prevent the destruction of prisoners of war, by sending them into distant and inclement countries, or by crowding them into close and noxious places, the two contracting parties solemnly pledge themselves to each other and the world, that they will not adopt any such practice; that neither will send the prisoners whom they may take from the other, into the East Indies or any

other parts of Asia or Africa; but that they shall be placed in some part of their dominions in Europe or America, in wholesome situations, that they shall not be confined in dungeons, prison ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs. That the officers shall be enlarged, on their paroles, within convenient districts, and have comfortable quarters, and the common men be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good, as are provided by the party in whose power they are, for their own troops; that the officers shall be daily furnished by the party, in whose power they are, with as many rations, and of the same articles and quality, as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them, with such rations as they allow to a common soldier in their own service; the value whereof shall be paid by the other party, on a mutual adjustment of accounts for the subsistence of prisoners, at the close of the war; and the said accounts shall not be mingled with, or set off against any others, nor the balances due on them, be withheld as a satisfaction or reprisal for any other article, or for any other cause, real or pretended, whatever. That each party shall be allowed to keep a commissary of prisoners, of their own appointment, with every separate cantonment of prisoners in possession

of the other, which commissary shall see the prisoners as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters, to those who employ him. But if any officer shall break his parole, or any other prisoners shall escape from the limits of his cantonment, after they shall have been designated to him, such individual officer, or other prisoner, shall forfeit so much of the benefit of this article, as provides for his enlargement on parole or cantonment. And it is declared, that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this, or the next preceding article, but, on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be as sacredly observed, as the most acknowledged articles in the law of nature and nations.

Answers to Questions Propounded by Monsieur de Meusnier, January 24th, 1786.

1. On the original establishment of the several States, the civil code of England, from whence they had emigrated, was adopted. This of course could extend only to general laws, and not to those which were particular to certain places in England only. The circumstances of the new States obliged them

to add some new laws, which their special situation required, and even to change some of the general laws of England in cases which did not suit their circumstances or ways of thinking. The law of descents, for instance, was changed in several States. On the late revolution, the changes which their new form of government rendered necessary were easily made. It was only necessary to say that the powers of legislation, the judiciary, and the executive powers, heretofore exercised by persons of such and such description, shall henceforth be exercised by persons to be appointed in such and such manners. This was what their constitution did. Virginia thought it might be necessary to examine the whole code of law, to reform such parts of it as had been calculated to produce a devotion to monarchy, and to reduce into smaller volume such useful parts as had become too diffuse. A committee was appointed to execute this work; they did it; and the Assembly began in October, 1785, the examination of it, in order to change such parts of the report as might not meet their approbation, and to establish what they should approve. We may expect to hear the result of their deliberations about the last of February next.

I have heard that Connecticut undertook a like work; but I am not sure of this, nor do I know whether any other of the States have or have not done the same.

2. The Constitution of New Hampshire, estab-

lished in 1776, having been expressly made to continue only during the contest with Great Britain, they proceeded, after the close of that, to form and establish a permanent one, which they did. The Convention of Virginia which organized their new government, had been chosen before a separation from Great Britain had been thought of in their State. They had, therefore, none but the ordinary powers of legislation. This leaves their act for organizing the government subject to be altered by every legislative assembly; and though no general change in it has been made, yet its effect has been controlled in several special cases. It is therefore thought that that State will appoint a convention for the special purpose of forming a stable constitution. I think no change has been made in any other of the States.

3. The following is a rough estimate of the particular debts of some of the States as they existed in the year 1784:

New Hampshire.	$500,000
Rhode Island. . .	5,000,000
Massachusetts . .	430,000
Connecticut . . .	3,439,086⅔
Virginia	2,300,000

United States' principal of Foreign debt nearly	$7,000,000
The principal of the Domestic debt is somewhere between 27½ millions and 35½ millions, call it therefore .	31,300,000
	$38,300,000

The other States not named here, are probably indebted in the same proportion to their abilities. If so, and we estimate their abilities by the rule of quotaing them, those eight States will owe about fourteen millions, and consequently the particular debts of all the States

will amount to twenty-five or twenty-six millions of dollars.

5. A particular answer to this question would lead to very minute details: one general idea, however, may be applied to all the States. Each having their separate debt, and a determinate proportion of the Federal debt, they endeavor to lay taxes sufficient to pay the interest of both of these, and to support their own and the Federal Government. These taxes are generally about one or one and a half per cent. on the value of property; and from two and a half to five per cent. on foreign merchandise imported. But the payment of this interest regularly, is not accomplished in many of the States. The people are as yet not recovered from the depredations of the war. When that ended their houses were in ruin, their farms waste, themselves distressed for clothing and necessaries for their households. They cannot as yet, therefore, bear heavy taxes. For the payment of the principal no final measures are yet taken. Some States will have land for sale, the produce of which may pay the principal debt. Some will endeavor to have an exceeding of their taxes to be applied as a sinking fund; and all of them look forward to the increase of population, and of course an increase of productions in their present taxes, to enable them to be sinking their debt. This is a general view. Some of the States have not yet made even just efforts for satisfying either the principal or interest of their public debt.

6. By the close of the year 1785 there had probably passed over about 50,000 emigrants. Most of these were Irish. The greatest number of the residue were Germans. Philadelphia receives most of them, and next to that, Baltimore and New York.

7. Nothing is decided as to Vermont. The four northernmost States wish it to be received into the Union. The Middle and Southern States are rather opposed to it. But the great difficulty arises with New York, which claims that territory. In the beginning every individual revolted at the idea of giving them up. Congress therefore only interfered from time to time, to prevent the two parties from coming to an open rupture. In the meanwhile the minds of the New Yorkers have been familiarizing to the idea of a separation, and I think it will not be long before they will consent to it. In that case, the Southern and Middle States will doubtless acquiesce, and Vermont will be received into the Union.

8. LeMaine, a part of the government of Massachusetts, but detached from it, (the State of New Hampshire lying between,) begins to desire to be separated. They are very weak in numbers as yet: but whenever they shall attain a certain degree of population, there are circumstances which render it highly probable they will be allowed to become a separate member of the Union.

9. It is believed that the State of Virginia has by this time made a second cession of lands to Con-

gress, comprehending all those between the meridian of the mouth of the Great Kanhaway, the Ohio, Mississippi, and Carolina boundary. Within this lies Kentucky. I believe that their numbers are sufficient already to entitle them to come into Congress. And their reception there will only increase the delay necessary for taking the consent of the several Assemblies. There is no other new State as yet approaching the time of its reception.

10. The number of Royalists which left New York, South Carolina and Georgia, when they were evacuated by the British army, was considerable, but I am absolutely unable to conjecture their numbers. From all the other States, I suppose perhaps two thousand may have gone.

11. The Confederation is a wonderfully perfect instrument, considering the circumstances under which it was formed. There are, however, some alterations which experience proves to be wanting. These are principally three. 1. To establish a general rule for the admission of new States into the Union. By the confederation no new States, except Canada, can be permitted to have a vote in Congress without first obtaining the consent of all the thirteen legislatures. It becomes necessary to agree what districts may be established into separate States, and at what period of their population they may come into Congress. The act of Congress of April 23, 1784, has pointed out what ought to be agreed on, to say also what number of votes

must concur when the number of voters shall be thus enlarged. 2. The Confederation, in its eighth article, decides that the quota of money to be contributed by the several States shall be proportioned to the value of the landed property in the State. Experience has shown it impracticable to come at this value. Congress have therefore recommended to the States to agree that their quotas shall be in proportion to the number of their inhabitants, counting five slaves, however, but as equal to three free inhabitants. I believe all the States have agreed to this alteration except Rhode Island. 3. The Confederation forbids the States individually to enter into treaties of commerce, or of any other nature, with foreign nations: and it authorizes Congress to establish such treaties, with two reservations however, viz., that they shall agree to no treaty which would, 1. restrain the legislatures from imposing such duties on foreigners as natives are subject to; or 2., from prohibiting the exportation or importation of any species of commodities. Congress may therefore be said to have a power to regulate commerce so far as it can be effected by conventions with other nations, and by conventions which do not infringe the two fundamental reservations before mentioned. But this is too imperfect. Because, till a convention be made with any particular nation, the commerce of any one of our States with that nation may be regulated by the State itself, and even when a convention

is made, the regulation of the commerce is taken out of the hands of the Several States only so far as it is covered or provided for by that convention or treaty. But treaties are made in such general terms, that the greater part of the regulations would still result to the legislatures. Let us illustrate these observations by observing how far the commerce of France and England can be affected by the State legislatures. As to England, any one of the legislatures may impose on her goods double the duties which are paid other nations; may prohibit their goods altogether; may refuse them the usual facilities for recovering their debts or withdrawing their property; may refuse to receive their Consuls or to give those Consuls any jurisdiction. But with France, whose commerce is protected by a treaty, no State can give any molestation to that commerce which is defended by the treaty. Thus, though a State may exclude the importation of all wines (because one of the reservations aforesaid is that they may prohibit the importation of any species of commodities), yet they cannot prohibit the importation of French wines, particularly while they allow wines to be brought in from other countries. They cannot impose heavier duties on French commodities than on those of other nations. They cannot throw peculiar obstacles in the way of their recovery of debts due to them, etc., etc., because those things are provided for by treaty. Treaties, however, are very imperfect machines for regulating

commerce in the detail. The principal objects in the regulation of our commerce would be: 1. to lay such duties, restrictions, or prohibitions on the goods of any particular nation, as might oblige that nation to concur in just and equal arrangements of commerce. 2. To lay such uniform duties on the articles of commerce throughout all the States, as may avail them of that fund for assisting to bear the burden of public expenses. Now, this cannot be done by the States separately, because they will not separately pursue the same plan. New Hampshire cannot lay a given duty on a particular article unless Massachusetts will do the same, because it will turn the importation of that article from her ports into those of Massachusetts, from whence they will be smuggled into New Hampshire by land. But though Massachusetts were willing to concur with New Hampshire in laying the same duty, yet she cannot do it for the same reason, unless Rhode Island will also, nor can Rhode Island without Connecticut, nor Connecticut without New York, nor New York without New Jersey, and so on quite to Georgia. It is visible, therefore, that the commerce of the States cannot be regulated to the best advantage but by a single body, and no body so proper as Congress. Many of the States have agreed to add an article to the Confederation for allowing to Congress the regulation of their commerce, only providing that the revenues to be raised on it shall belong to the States in which they are levied. Yet

it is believed that Rhode Island will prevent this also. An everlasting recurrence to this same obstacle will occasion a question to be asked. How happens it that Rhode Island is opposed to every useful proposition? Her geography accounts for it, with the aid of one or two observations. The cultivators of the earth are the most virtuous citizens, and possess most of the amor patriæ. Merchants are the least virtuous, and possess the least of the amor patriæ. The latter reside principally in the seaport towns, the former in the interior country. Now, it happened that of the territory constituting Rhode Island and Connecticut, the part containing the seaports was erected into a State by itself, called Rhode Island, and that containing the interior country was erected into another State called Connecticut. For though it has a little sea-coast, there are no good ports in it. Hence it happens that there is scarcely one merchant in the whole State of Connecticut, while there is not a single man in Rhode Island who is not a merchant of some sort. Their whole territory is but a thousand square miles, and what of that is in use is laid out in grass farms almost entirely. Hence they have scarcely anybody employed in agriculture. All exercise some species of commerce. This circumstance has decided the characters of these two States. The remedies to this evil are hazardous. One would be to consolidate the two States into one. Another would be to banish Rhode Island

from the Union. A third, to compel her submission to the will of the other twelve. A fourth, for the other twelve to govern themselves according to the new propositions, and to let Rhode Island go on by herself according to the ancient articles. But the dangers and difficulties attending all these remedies are obvious.

These are the only alterations proposed to the confederation, and the last of them is the only additional power which Congress is thought to need.

12. Congress have not yet ultimately decided at what rates they will redeem the paper money in the hands of the holders. But a resolution of 1784 has established the principle, so that there can be little doubt but that the holders of paper money will receive as much real money as the paper was actually worth at the time they received it, and an interest of six per cent. from the time they received it. Its worth will be found in the depreciation table of the State wherein it was received; these depreciation tables having been formed according to the market price of the paper money at different epochs.

13. Those who talk of the bankruptcy of the United States, are of two descriptions: 1. Strangers who do not understand the nature and history of our paper money. 2. Holders of that paper money who do not wish that the world should understand it. Thus, when in March, 1780, the paper money being so far depreciated that forty dollars of it would purchase only one silver dollar, Congress

endeavored to correct the progress of that depreciation by declaring they would emit no more, and would redeem what was in circulation at the rate of one dollar of silver for forty of paper; this was called by the brokers in paper money, a bankruptcy. Yet these very people who had only given one dollar's worth of provisions, of manufactures, or perhaps of silver, for their forty dollars, were displeased that they could not in a moment multiply their silver into forty. If it were decided that the United States should pay a silver dollar for every paper dollar they emitted, I am of opinion (conjecturing from loose data of my memory only as to the amount and true worth of the sums emitted by Congress and by the several States) that a debt, which in its just amount is not more, perhaps, than six millions of dollars, would amount up to four hundred millions, and instead of assessing every inhabitant with a debt of about two dollars, would fix on him thirty guineas, which is considerably more than the national debt of England affixes on each of its inhabitants, and would make a bankruptcy where there is none. The real just debts of the United States, which were stated under the third query, will be easily paid by the sale of their lands, which were ceded on the fundamental condition of being applied as a sinking fund for this purpose.

14. The whole army of the United States was disbanded at the close of the war. A few guards only were engaged for their magazines. Lately they

have enlisted some two or three regiments to garrison the posts along the Northern boundary of the United States.

16. The United States do not own, at present, a single vessel of war; nor has Congress entered into any resolution on that subject.

17. I conjecture there are six hundred and fifty thousand negroes in the five southernmost States, and not fifty thousand in the rest. In most of these latter, effectual measures have been taken for their future emancipation. In the former, nothing is done towards that. The disposition to emancipate them is strongest in Virginia. Those who desire it, form, as yet, the minority of the whole State, but it bears a respectable portion to the whole in numbers and weight of character, and it is continually recruiting by the addition of nearly the whole of the young men as fast as they come into public life. I flatter myself it will take place there at some period of time not very distant. In Maryland and North Carolina a very few are disposed to emancipate. In South Carolina and Georgia, not the smallest symptom of it, but, on the contrary, these two States, and North Carolina, continue importations of negroes. These have been long prohibited in all the other States.

18. In Virginia, where a great proportion of the legislature consider the Constitution but as other acts of legislation, laws have been frequently passed which controlled its effects. I have not heard that

in the other States they have ever infringed their Constitution, and I suppose they have not done it, as the Judges would consider any law as void which was contrary to the Constitution. Pennsylvania is divided into two parties very nearly equal, the one desiring to change the Constitution, the other opposing a change. In Virginia there is a part of the State which considers the act for organizing their government as a Constitution, and are content to let it remain; there is another part which considers it only as an ordinary act of the legislature, who, therefore, wish to form a real Constitution, correcting some defects which have been observed in the act now in force. Most of the young people as they come into office arrange themselves on this side, and I think they will prevail ere long. But there are no heats on this account. I do not know that any of the other States propose to change their Constitution.

19. I have heard of no malversations in office which have been of any consequence, unless we consider as such some factious transactions in the Pennsylvania Assembly; or some acts of the Virginia Assembly which have been contrary to their Constitution. The causes of these were explained in the preceding article.

20. Broils among the States may happen in the following ways: 1. A State may be embroiled with the othe twelver by not complying with the lawful requisitions of Congress. 2. Two States may differ

about their boundaries. But the method of settling these is fixed by the Confederation, and most of the States which have any differences of this kind, are submitting them to this mode of determination, and there is no danger of opposition to the decree by any State. The individuals interested may complain, but this can produce no difficulty. 3. Other contestations may arise between two States, such as pecuniary demands, affrays among their citizens, and whatever else may arise between any two nations; with respect to these, there are two opinions. One that they are to be decided according to the ninth article of the Confederation, which says that Congress shall be the last resort in all differences between two or more States, concerning boundary jurisdiction, *or any other cause whatever;* and prescribes the mode of decision, and the weight of reason is undoubtedly in favor of this opinion, yet there are some who question it.

It has been often said that the decisions of Congress are impotent because the Confederation provides no compulsory power. But when two or more nations enter into compact, it is not usual for them to say what shall be done to the party who infringes it. Decency forbids this, and it is as unnecessary as indecent, because the right of compulsion naturally results to the party injured by the breach. When any one State in the American Union refuses obedience to the Confederation by which they have bound themselves, the rest

have a natural right to compel them to obedience. Congress would probably exercise long patience before they would recur to force; but if the case ultimately required it, they would use that recurrence. Should this case ever arise, they will probably coerce by a naval force, as being more easy, less dangerous to liberty, and less likely to produce much bloodshed.

It has been said, too, that our governments, both federal and particular, want energy; that it is difficult to restrain both individuals and States from committing wrong. This is true, and it is an inconvenience. On the other hand, that energy which absolute governments derive from an armed force, which is the effect of the bayonet constantly held at the breast of every citizen, and which resembles very much the stillness of the grave, must be admitted also to have its inconveniences. We weigh the two together, and like best to submit to the former. Compare the number of wrongs committed with impunity by citizens among us with those committed by the sovereign in other countries, and the last will be found most numerous, most oppressive on the mind, and most degrading of the dignity of man.

22. The States differed very much in their proceedings as to British property, and I am unable to give the details. In Virginia, the sums sequestered in the treasury remain precisely as they did at the conclusion of the peace. The British having

refused to make satisfaction for the slaves they carried away, contrary to the treaty of peace, and to deliver up the ports within our limits, the execution of that treaty is in some degree suspended. Individuals, however, are paying off their debts to British subjects, and the laws even permit the latter to recover them judicially. But as the amount of these debts is twenty or thirty times the amount of all the money in circulation in that State, the same laws permit the debtor to pay his debts in seven equal and annual payments.

Notes on Monsieur Soulés' work.

PARIS, Sept. 13th, 1786.

SIR,—Before the receipt of your favor of the 11th instant I had written the enclosed short notes on such parts of your work as I have been yet able to go over. You will perceive that the corrections are very trifling. Such as they are, I will continue them, and forward them to you from time to time as I get along. I will endeavor also to answer such of the queries you propose in your letter as my memory will enable me to do with certainty. Some of them I shall be unable to answer, having left in America all my notes, memorandums, etc., which might have enabled me to give you the information you desire. I have the honor to be, with the most esteem and respect, Sir,

Your most obedient humble servant,

M. SOULÉS. TH: JEFFERSON.

Answers to the queries of M. Soulés.

I am unable to say what was the number of Americans engaged in the affair of Bunker's Hill. I am able, however, to set right a gross falsehood of Andrews. He says the Americans there engaged

were constantly relieved by fresh hands. This is entirely untrue. Bunker's Hill [or rather Breed's Hill whereon the action was] is a peninsula joined to the main land by a neck of land almost level with the water, a few paces wide, and about one or two hundred toises long. On one side of this neck lay a vessel of war, and on the other several gunboats. The body of our army was on the main land, and only a detachment had been sent into the peninsula. When the enemy determined to make the attack, they sent the vessel of war and gunboats to take the position before mentioned, to cut off all reinforcements, which they effectually did. Not so much as a company could venture to the relief of the men engaged, who therefore fought through the whole action, and at length were obliged to retire across the neck through the cross-fire of the vessels before mentioned.

"On the fall of Montgomery and his aids at Quebec there were present Colonel Campbell and Major Dubois. Campbell, though having the rank of colonel, was only of the staff; Dubois was of the line. The usage of all nations, therefore, authorized the latter to take the command. But it was a case for which Congress had not yet provided. Campbell availed himself of this; and believing, on the sight of blood, that all was lost, ordered a retreat."

The speech to the Indians, in Andrews', page 357, is a little altered and abridged. You will find the

genuine one in the Journal of Congress, of July, 1775. I do not distinctly enough recollect the anecdote of the old man's company, related by Andrews, to affirm it in all its parts. I think I recollect in general that there was such a company.

The questions relative to General Thomas, I could only have answered indistinctly from my own memory: but fortunately there came to Paris a few days ago, and will yet continue there a few days, a Colonel Blackden, an American officer of good understanding and of truth, and who was at the latter part of the affair of Quebec. He was at the surprise of Ticonderoga by Allen, and continued with the army until 1781. I have spoken with him on this subject, and find that he possesses treasures of details, which will be precious to M. Soulés. Any day that M. Soulés will do me the honor to come and take a *famile soupe* with me, (after the 16th instant,) if he will give me notice in the morning, I will ask Colonel Blackden to meet him here, and will make them acquainted. He is perfectly disposed to give all the information in his power to M. Soulés, and whatever he gives may be relied on. To him, then, I shall refer M. Soulés for answers to his military questions, and will wait his orders, recommending despatch, as Colonel Blackden has not long to stay.

The Stamp Act was passed in February, 1765.

What powers the Parliament might rightfully exercise over us, and whether any, had never been declared either by them or us. They had very

early taken the gigantic step of passing the Navigation Act. The colonies remonstrated violently against it, and one of them, Virginia, when she capitulated to the commonwealth of England, expressly capitulated for a free trade. [See the articles on the Notes on Virginia, p. 201.] This capitulation, however, was as little regarded as the original right, restored by it, had been. The Navigation Act was re-enacted by Charles, and was enforced. And we had been so long in the habit of seeing them consider us merely as objects for the extension of their *commerce*, and of submitting to every duty or regulation imposed with that view, that we had ceased to complain of them. But when they proposed to consider us as objects of *taxation*, all the States took the alarm. Yet so little had we attended to this subject, that our advocates did not at first know on what ground to take their stand. Mr. Dickenson, a lawyer of more ingenuity than sound judgment, and still more timid than ingenious, not daring to question the authority to regulate commerce so as best to answer their own purpose, to which we had so long submitted, admitted that authority in its utmost extent. He acknowledged * * * * * that they could levy duties, internal or external, payable in Great Britain or in the States. He only required that these duties should be bona fide for the *regulation* of commerce, and not to raise a solid *revenue*. He admitted, therefore, that they might

control our commerce, but not tax us. This mysterious system took, for a moment, in America as well as in Europe. But sounder heads saw in the first moment, that he who could put down the loom, could stop the spinning wheel, and he who could stop the spinning wheel could tie the hands which turned it. They saw that this flimsy fabric could not be supported. Who were to be judges whether duties were imposed with a view to burden and suppress a branch of manufacture, or to raise a revenue? If either party, exclusively of the other, it was plain where that would end. If both parties, it was plain where that would end also. They saw, therefore, no sure clue to lead them out of their difficulties but reason and right. They dared to follow them, assured that they alone could lead them to defensible ground. The first elements of reason showed that the members of Parliament could have no power which the people of the several counties had not. That these had naturally a power over their own farms, and, collectively, over all England. That if they had any power over counties out of England, it must be founded on compact or force. No compact could be shown, and neither party chose to bottom their pretensions on force. It was objected that this annihilated the Navigation Act. True, it does. The Navigation Act, therefore, becomes a proper subject of treaty between the two nations. Or if Great Britain does not choose to have its basis questioned, let us go on as

we have done. Let no new shackles be imposed, and we will continue to submit to the old. We will consider the restrictions on our commerce, now actually existing, as compensations yielded by us for the protection and privileges we actually enjoy, only trusting that if Great Britain, on a revisal of these restrictions, is sensible that some of them are useless to her and oppressive to us, she will repeal them. But on this she shall be free. Place us in the condition we were when the king came to the throne, let us rest so, and we will be satisfied. This was the ground on which all the States very soon found themselves rallied, and that there was no other which could be defended.

I will now proceed with remarks on the history. I do not think that M. Soulés mentioned the affair of the Cedars, which happened in April, 1775. This was an affair of no small importance. A committee was appointed by Congress to institute inquiries concerning it, as may be seen by the journal of June 14, 1776. The report of that committee is inserted in the journal of July the 10th, and I can assure M. Soulés, that the facts therein stated were proved unhesitatingly to the committee by witnesses present at the transactions, and who were on watch. I have the originals of that inquiry in my possession in America. The Captain Foster therein mentioned, was afterwards taken with Burgoyne's army, though permitted to go at large on his parole. He was not received into any American company, nor

did the British officers, his fellow prisoners, choose to be seen in company with him—so detestable had been the transaction, etc. Vol. i. p. 324. I have been very well informed, that during all the latter part of the defence, the garrison were obliged to return the cannon balls of the enemy, with which, indeed, the ground was covered, having none of their own left.

Page 325. "Il l'eut un Serjent," etc. This particular truly related in Andrews.

Page 5. "Ils en vinrent," etc. See the journal of Congress. That it was on that day put off to the 1st of July. This was done at the instance of the members opposed to it. The friends of the resolution objected, that if it were not agreed to till the 1st of July, they would after that have to frame a Declaration of Independence, and that more time would then be lost. It was therefore agreed between the two, that the resolution should be put off till the 1st of July; and that a committee should be immediately appointed to draw a Declaration of Independence, conformable to the resolution, should it be adopted. A committee was accordingly appointed the next day. On the 1st of July the resolution was proposed, and when ready for a vote, a State required it to be put off till the next day. It was done, and was passed the next day, 2d of July. The Declaration of Independence was debated the 2d, 3d and 4th days of July, and on the last of these was passed and signed.

Page 6th. A "se retirerent enseute du Congres." I do not remember that the delegates of Maryland retired from Congress, and I think I could not have forgotten such a fact. On the contrary, I find by the journal of Congress, that they were present, and acting on the 11th, 12th, 17th, 18th, and 24th of June.

Page 7. A "la plus grande partie." It should rather be the most important parts.

Page 7, 6. "Les etats ferrient encore aujourdhui partie de l'empire Britannique." M. Soulés may be assured that the submission of the States could not have been effected but by a long course of disasters, and such, too, as were irreparable in their nature. Their resources were great, and their determination so rooted, that they would have tried the last of them. I am as satisfied as I can be of anything, that the conjecture here stated would not have been verified by the event.

Page 14. "Provinces unis." Should not this always be "états unis?"

Page 15. "Mais qu'on pouvoir aussi les interpreter," etc. His exact answer was, "That it was true the, etc. might include *anything*, but that might also include *nothing*."

Page 16. "Tant de confiance," etc. Their main confidence was in their own resources. They considered foreign aid as probable and desirable, but not essential. I believe myself, from the whole of what I have seen of our resources and perseverance,

that had we never received any foreign aid, we should not have obtained our independence. But that we should have made a peace with Great Britain on any terms we pleased short of that, which would have been a subjection to the same king, a union of force in war, etc. 2. That had France supplied us plentifully with money, suppose about four millions of guineas a year, without entering into the war herself at all, we should have established our independence, but it would have cost more time and blood, but less money. 3. That France, aiding us as she did, with money and forces, shortened much the time, lessened the expense of blood, but at a greater expense of money to her than would have otherwise been requisite.

Page 18. "*L'extremité* septentrional," etc. I think the word "cotè" would be better adapted than "extremité" to the form of the island.

Page 21. "3000 hommes." Inquire of Colonel Blackden.

Perhaps the propositions of Congress to the Hessians may be worth mentioning. See their journals, 1776, Aug. 14.

I will make a general observation here on the events of Long Island, New York, etc., at this time. The maxim laid down by Congress to their generals was, that not a foot of territory was to be ceded to their enemies where there was a possibility of defending it. In consequence of these views, and against his own judgment, General Washington was

obliged to fortify and attempt to defend the city of New York. But that could not be defended without occupying the heights on Long Island which commanded the city of New York. He was therefore obliged to establish a strong detachment in Long Island to defend those heights. The moment that detachment was routed, which he had much expected, his first object was to withdraw them, and his second to evacuate New York. He did this, therefore, immediately, and without waiting any movement of the enemy. He brought off his whole baggage, stores and other implements, without leaving a single article except the very heaviest of his cannon and things of little value. I well remember his letter to Congress, wherein he expressed his wonder that the enemy had given him this leisure, as, from the heights they had got possession of, they might have compelled him to a very precipitate retreat. This was one of the instances where our commanding officers were obliged to conform to popular views, though they foresaw certain loss from it. Had he proposed at first to abandon New York, he might have been abandoned himself. An obedience to popular will cost us an army in Charleston in the year 1779.

Page 30. "Une fuite precipitée." It was a leisurely retreat, as I have before observed.

Page 41. "Que je n'ai prie obtener que d'un anglais." Colonel Blackden can probably give M. Soulés good intelligence on this affair. I think I

recollect the slaughter on Kniphausen's side to have been very great.

Volume 3. "Si dans son institution," etc.

This is a luminous idea, and worthy of being a little more developed. It places the question between Great Britain and America in the simplest form possible. No Englishman will pretend that a right to participate in government can be derived from any other source than a personal right, or a right of property. The conclusion is inevitable that he, who had neither his *person* nor *property* in America, could rightfully assume a participation in its government.

Page 17. The seeds of the war are here traced to their true source. The Tory education of the King was the first preparation for that change in the British government which that party never ceases to wish. This naturally ensured Tory administrations during his life. At the moment he came to the throne and cleared his hands of his enemies by the peace of Paris, the assumptions of unwarrantable right over America commenced. They were so signal, and followed one another so close, as to prove they were part of a system, either to reduce it under absolute subjection, and thereby make it an instrument for attempts on Britain itself, or to sever it from Britain, so that it might not be a weight in the Whig scale. This latter alternative, however, was not considered as the one which would take place. They knew so little of America, that

they thought it unable to encounter the little finger of Great Britain. M. de Soulés has well developed this subject. He is best judge whether anything more need be said on this subject.

Page 43. "Se le ministere anglais avoit eu la patience d'attendre," etc.

Having seen and intimately known the positions of the Americans at that moment, I am certain that this conjecture would not have been verified. The determined resolution with which they met every effort of the ministry, whether made in the form of force, fraud, or persuasion, gives us a moral certainty they would have been equally immovable, if tried in the way of privation here proposed.

Page 51. The substitution of Gage for Hutchinson was not intended as a favor, but, by putting the civil government into military hands, was meant to show they would enforce their measures by arms. See page 109, where Congress makes it one of their grievances.

Page 102. "Plusieurs criminals," etc. Notwithstanding the laws the English made, I think they never ventured to carry a single person to be tried in England. They knew that reprisals would be made, and probably on the person of the governor who ventured on the measure.

Page 149. The fact that the English commenced hostilities at Lexington being proved beyond question by us, and even acknowledged by the English, justice requires it should be plainly asserted and left

clear of doubt. Few of the facts which history asserts and relies on, have been so well established.

Page 150. "L'humanité des Britons." I doubt whether this is the character of the nation in general. But this history, and every one which is impartial, must in its relation of this war show, in such repeated instances, that they conducted it, both in theory and practice, on the most barbarous principles, that the expression here cited will stand in contradiction to the rest of the work. As examples of their theory, recollect the act of Parliament for constraining our prisoners, taken on the sea, to bear arms against their fathers, brothers, etc. For their practice, recollect the exciting the savages against us, insurrections of our slaves, sending our prisoners to the East Indies, killing them in prison ships, keeping them on half rations, and of the most unwholesome quality, cruel murders of unarmed individuals of every sex, massacres of those in arms after they had asked quarter, etc., etc.

Page 150. "A cé que l'on dét à 20,000 hommes." It was of 22,000 men. I was in a situation to know the fact from General Washington's own information.

Page 158. l. 8. Strike out "ét probablement," and insert "mais veritablement." I remember the fact well, and the leading persons of Connecticut, and particularly their delegates in Congress made no secret, that their object was to overawe New York into its duty. Page 159. "El frit resolvè de

la reduire [*i. e.*, nouvelle York] en cendre." This was proposed and considered in Congress, but they refused to come to this resolution, nor do I recollect that any other body resolved it.

Page 163. *Doctor* Franklin has been called by that title as early as 1760, within my own knowledge; I do not know how much longer.

His quality in France was that of Minister Plenipotentiary, and not as Ambassador. We have never appointed an Ambassador. France offered to receive one.

Page 166. The English set fire to Charleston. Query, as to the number of their killed.

Page 180. 181. Gates was and still is an inhabitant of Virginia. He never lived in any other State.

Page 190. "M. Arnold avoit formé une entreprise," etc. I never understood that he formed this enterprise, nor do I believe he did. I heard and saw all General Washington's letters on this subject. I do not think he mentioned Arnold as author of the proposition, yet he was always just in ascribing to every officer the merit of his own works; and he was disposed particularly in favor of Arnold. This officer is entitled to great merit in the execution, but to ascribe to him that of having formed the enterprise, is probably to ascribe to him what belongs to General Washington or some other person.

Page 209. "Et qu' il ne leur fut plus permis de lever la milice," etc. They had formerly had a law

on the subject of invasions and insurrections, which was of a perpetual tenor. They altered this law by one which was to be in force for a certain term of years only. That term of years effluxed at this time, the altering law expired, and therefore, the old one resumed its vigor. It was very imperfect, yet they chose to act under the color of that rather than without any color of law.

Page 216. "Dont elles se plaignorent." This seems to be the proper place to rectify a small error in the arrangement of facts, and to state the answer to the conciliatory proposition, which was, in truth, the first work of the Assembly. I have not here the journals of the Assembly, but there are certain circumstances which render it impossible for my memory to lead me astray. I was under appointment to attend the general Congress; but knowing the importance of the answer to be given to the conciliatory proposition, and that our leading Whig characters were then in Congress, I determined to attend on the Assembly, and, though a young member, to take on myself the carrying through an answer to the proposition. The Assembly met the 1st of June. I drew and proposed the answer, and carried it through the House with very little alteration, against the opposition of our timid members who wish to speak a different language. This was finished before the 11th of June, because on that day, I set out from Williamsburg to Philadelphia, and was the bearer of an authenticated copy of this

instrument to Congress. The effect it had in fortyfying their minds, and in deciding their measures, renders its true date important; because only Pennsylvania had as yet answered the proposition. Virginia was the second. It was known how Massachusetts would answer it, and the example of these three principal colonies would determine the measures of all the others, and of course the fate of the proposition. Congress received it, therefore, with much satisfaction. The Assembly of Virginia did not deliver the answer to Lord Dunmore till late in the session. They supposed it would bring on a dissolution of their body whenever they should deliver it to him; and they wished previously to get some important acts passed. For this reason they kept it up. I think that Lord Dunmore did not quit the Metropolis till he knew that the answer framed by the House was a rejection of the proposition, though that answer was not yet communicated to him regularly.

Page 231. "Quelques certaines de blancs." These were composed principally of Scotch merchants and factors, and some few English, who had settled in the country. I doubt whether there was a single native among them. If M. Soulés could therefore characterise more particularly who they were who joined Lord Dunmore, it would be an agreeable act of justice to the natives.

Page 283. "Les Americains qui avoit joint Milord Dunmore." The same observation applies to this.

Page 245. "Pendant l'eté, le congres general avoit eté occupé à dresser un plan pour former une confederation." It is necessary to set to rights here a fact which has been mistaken by every person who has written on this subject. I will do it from a perfect recollection of facts, but my memory does not enable me to state the date exactly. I was absent from Congress from the beginning of January, 1776, to the middle of May. Either just before I left Congress, or immediately on my return to it, (I rather think it was the former,) Doctor Franklin put into my hands the draught of a plan of Confederation, desiring me to read it, and tell him what I thought of it. I approved it highly. He showed it to others. Some thought as I did; others were revolted at it. We found it could not be passed, and the proposing it to Congress as the subject for any vote whatever would startle many members so much, that they would suspect we had lost sight of reconciliation with Great Britain, and that we should lose much more ground than we should gain by the proposition. Yet, that the idea of a more firm bond of union than the undefined one under which we then acted might be suggested and permitted to grow, Doctor Franklin informed Congress that he had sketched the outlines of an instrument which might become necessary at a future day, if the minority continued pertinacious, and would ask leave for it to lay on the table of Congress, that the members might in the meantime be turning the

subject in their minds, and have something more perfect prepared by the time it should become necessary. This was agreed to by the timid members, only on condition, that no entry whatever should be made in the journals of Congress relative to this instrument. This was to continue in force only till a reconciliation with Great Britain. This was all that ever was done or proposed in Congress on the subject of a Confederation before June, 1776, when the proposition was regularly made to Congress, a committee appointed to draw an instrument of Confederation, who accordingly drew one, very considerably differing from the sketch of Doctor Franklin.

Page 294. "Il est à croire qu'ily avoit quelque convention." It is well known that there was such a convention. It was never made a secret of, on our part. I do not exactly recollect its terms, but I believe they were what M. Soulés states.

Page 301. "La petite verole." I have been informed by officers who were on the spot, and whom I believe myself, that this disorder was sent into our army designedly by the commanding officer in Quebec. It answered his purpose effectually.

Observations on the Letter of Monsieur de Calonnes, to Monsieur Jefferson, dated Fontainebleau, October 22d, 1786.

A committee was appointed, in the course of the last year, to take a view of the subjects of commerce which might be brought from the United States of America, in exchange for those of France, and to consider what advantages and facilities might be offered to encourage that commerce. The letter of Monsieur de Calonnes was founded on their report. It was conclusive as to the articles on which satisfactory information had been then obtained, and reserved for future consideration certain others needing further enquiry. It is proposed, now, to review those unfinished articles, that they also may be comprehended in the Arret, and the regulations on this branch of commerce be rendered complete.

1st. The letter promises to diminish the Droits du roi et d'amirauté, payable by an American vessel entering into a port of France, and to reduce what should remain into a single duty, which shall be regulated by the draught of the vessel, or her number of masts. It is doubted whether it will be expedient to regulate the duty in either of these ways. If by the draught of water, it will fall unequally on us as a nation; because we build our vessels sharp-bottomed, for swift sailing, so that they draw more water than those of other nations, of the same burden; if by the number of masts, it

will fall unequally on individuals, because we often see ships of one hundred and eighty tons, and brigs of three hundred and sixty. This, then, would produce an inequality among individuals of six to one. The present principle is the most just, to regulate by the burden.

It is certainly desirable that these duties should be reduced to a single one. Their names and numbers perplex and harass the merchant more than their amount, subject him to imposition, and to the suspicion of it where there is none. An intention of general reformation in this article has been accordingly announced[1] with augmentation as to foreigners. We are in hopes that this augmentation is not to respect us; because it is proposed as a measure of reciprocity; whereas, in some of our States no such duties exist, and in others they are extremely light; because we have been made to hope a diminution instead of augmentation; and because this distinction cannot draw on France any just claims from other nations, the *Jura gentis amicissimæ* conferred by her late treaties having reference expressly to the nations of Europe only; and those conferred by the more ancient ones not being susceptible of any other interpretation, nor admitting a pretension of reference to a nation which did not then exist, and which has come into existence under circumstances distinguishing its commerce from that of all other nations. Merchandise received from

[1] Memoires presentées à l'assemblée des Notables, page 53.

them takes employment from the poor of France; ours give it; theirs is brought in the last stage of manufacture, ours in the first; we bring our tobaccoes to be manufactured into snuff, our flax and hemps into linen and cordage, our furs into hats, skins into saddlery, shoes, and clothing; we take nothing till it has received the last hand.

2d. Fish-oils. The Hanseatic treaty was the basis on which the diminution of duty on this article was asked and granted. It is expressly referred to as such in the letter of Monsieur de Calonnes. Instead, however, of the expression "huile et graisse de baleine and d'autres poissons" used in that treaty, the letter uses the terms "huiles de baleine, spermaceti, et tout ce qui est compris sous ces denominations." And the farmers have availed themselves of this variation to refuse the diminution of duty on the oils of the vache marine, chien de mer, esturgeon, and other fish. It is proposed, therefore, to re-establish in the Arret the expressions of the Hanseatic treaty, and to add from the same treaty the articles "baleine coupee et fanon de baleine."

The letter states these regulations as finally made by the King. The merchants on this supposition entered into speculations. But they found themselves called on for the old duties, not only on other fish oils, but on the whale oil. Monsieur de Calonnes always promised that the Arret should be retrospective to the date of the letter, so as to refund to them the duties they had thus been obliged to pay. To

this attention is prayed in forming the Arret. His Majesty having been pleased, as an encouragement to the importation of our fish oils, to abolish the Droits de fabrication, it is presumed that the purpose[1] announced of continuing those duties on foreign oils will not be extended to us.

3d. Rice. The duty on this is only seven and a half deniers the quintal, or about one-quarter per cent. on its first cost. While this serves to inform the government of the quantities imported, it cannot discourage that importation. Nothing further, therefore, is necessary on this article.

4th. Potash. This article is of principal utility to France in her bleacheries of linen, glass-works, and soap-works; and the potash of America, being made of green wood, is known to be the best in the world. All duty on it was therefore abolished by the King. But the city of Rouen levies on it a duty of twenty sols the quintal, which is very sensible in its price, brings it dearer to the bleacheries near Paris, to those of Beauvais, Laval Company, and to the glass-works, and encourages them to give a preference to the potash or soda of other nations. This is a counteraction of the views of the King expressed in the letter, which it is hoped will be prevented.

5th. Turpentine, tar, and pitch, were not decided on the former occasion. Turpentine (Terebenthine) pays ten sols the quintal, and ten sols the livre, making fifteen sols the quintal; which is ten

[1] Memoires presentées ex. page 51, 52.

per cent. on its prime cost. Tar, (goudron, braigras) pays eight livres the leth of twelve barrels, and ten sols the livre, amounting to twenty sols the barrel, which is twelve and a half per cent. on its prime cost. Pitch (brai sec) pays ten sols the quintal, and ten sols the livre, making fifteen sols the quintal, which is twenty per cent. on its prime cost. Duties of from ten to twenty per cent. on articles of heavy carriage, prevent their importation. They eat up all the profits of the merchant, and often subject him to loss. This has been much the case with respect to turpentine, tar, and pitch, which are a principal article of remittance for the State of North Carolina. It is hoped that it will coincide with the views of government in making the present regulations, to suppress the duties on these articles, which of all others can bear them least.

Proposals for Concerted Operation among the Powers at War with the Piratical States of Barbary, November, 1786.[1]

1. It is proposed that the several powers at war with the piratical States of Barbary, (or any two

[1] This plan was approved by Portugal, Naples, the two Sicilies, Venice, Denmark, and Sweden. France seemed favorably disposed. Spain alone, having just concluded a treaty with Algiers, was indisposed. In this state of things, the plan was communicated to Congress, together with information that we would be expected to maintain a frigate towards its execution. Unfortunately, the supplies of the Treasury were so uncertain, that Congress were not willing to enter into an engagement which they might not be able to fulfil, and thus the plan failed.—Ed.

or more of them who shall be willing,) shall enter into a convention to carry on their operations against those States in concert, beginning with the Algerines.

2. This convention shall remain open to any other power who shall, at any future time, wish to accede to it: the parties reserving a right to prescribe the conditions of such accession according to the circumstances existing at the time it shall be proposed.

3. The object of the convention shall be to compel the piratical States to perpetual peace, without price, and to guarantee that peace to each other.

4. The operations for obtaining that peace shall be constant cruises on their coast, with a naval force to be agreed on. It is not proposed that this force shall be so considerable as to be inconvenient to any party. It is believed that half a dozen frigates, with as many tenders, or xebecks, one half of which shall be on cruise while the other half is at rest, will suffice.

5. The force agreed to be necessary, shall be furnished by the parties in certain quotas now to be fixed; it being expected that each will be willing to contribute in such proportion as circumstances may render reasonable.

6. As miscarriages often proceed from the want of harmony among officers of different nations, the parties shall now consider and decide, whether it shall not be better to contribute their quotas in money, to be employed in fitting out and keeping on duty, a single fleet of the force agreed on.

7. The difficulties and delays too, which will attend the management of these operations, if conducted by the parties themselves separately, distant as their courts may be from one another, and incapable of meeting in consultation, suggest a question whether it will not be better for them to give full powers for that purpose to their ambassadors or other minister resident at some one court of Europe, who shall form a committee or council for carrying this convention into effect; wherein the vote of each member shall be computed in proportion to the quota of his sovereign, and the majority, so computed, shall prevail in all questions within the view of this convention. The court of Versailles is proposed, on account of its neighborhood to the Mediterranean, and because all those powers are represented there who are likely to become parties to this convention.

8. To save to that council the embarrassment of personal solicitations for office, and to assure the parties that their contributions will be applied solely to the object for which they are destined, there shall be no establishment of officers for the said council, such as Commissaries, Secretaries, or of any other kind, with either salaries or perquisites, nor any other lucrative appointments, but such as whose functions are to be exercised on board of the said vessels.

9. Should war arise between any two of the parties to this convention, it shall not extend to this

enterprise, nor interrupt it; but as to this they shall be reputed at peace.

10. When Algiers shall be reduced to peace, the other piratical States, if they refuse to discontinue their piracies, shall become the objects of this convention either successively or together, as shall seem best.

11. Where this convention would interfere with treaties actually existing between any of the parties and of the said States of Barbary, the treaty shall prevail, and such party shall be allowed to withdraw from the operations against that State.

To the Editor of the Journal de Paris.

PARIS, August 29, 1787.

SIR,—I am a citizen of the United States of America, and have passed in those States almost the whole of my life. When young, I was passionately fond of reading books of history and travels. Since the commencement of the late Revolution which separated us from Great Britain, our country, too, has been thought worthy to employ the pens of historians and travellers. I cannot paint to you, Sir, the agonies which these have cost me, in obliging me to renounce these favorite branches of reading, and in discovering to me at length, that my whole life has been employed in nourishing my mind with fables and falsehoods. For thus I reason. If the histories of d'Auberteuil and of Longchamps, and

the travels of the Abbé Robin can be published in the face of the world, and can be read and believed by those who are cotemporary with the events they pretend to relate, how may we expect that future ages shall be better informed? Will those rise from their graves to bear witness to the truth, who would not, while living, lift their voices against falsehood? If cotemporary histories are thus false, what will future compilations be? And what are all those of preceding times? In your journal of this day, you announce and criticise a book under the title of "les ligues Acheenne, Suisse, & Hollandoise, et revolution des états unis d'e l'Amerique par M. de Mayer." I was no part of the Achaean, Swiss or Dutch confederacies, and have therefore nothing to say against the facts related of them. And you cite only one fact from his account of the American Revolution. It is in these words: "Monsieur Mayer assure qu'une seule voix, un seul homme, prononça l'independance des Etats unis. Ce fut, dit il, John Dickinson, un des Deputés de la Pensilvanie au Congrés. la veille, il avoit vôté pour la soumission. l'egalité des suffrages avoit suspendu la resolution; s'il eut persisté, le Congrés ne deliberoit point, il fut foible: il ceda aux instances de ceux qui avoient plus d'energie, plus d'eloquence, et plus de lumieres; il donna sa voix: l'Amerique lui doit une reconnaissance eternelle; c'est Dickinson qui l'a affranchie." The modesty and candor of Mr. Dickinson himself, Sir, would disavow every word of this paragraph,

except these—"il avoit voté pour la soumission." These are true, every other tittle false. I was on the spot, and can relate to you this transaction with precision. On the 7th of June, 1776, the delegates from Virginia moved, in obedience to instructions from their constituents, that Congress should declare the thirteen united colonies to be independent of Great Britain, that a confederation should be formed to bind them together, and measures be taken for procuring the assistance of foreign powers. The House ordered a punctual attendance of all their members the next day at ten o'clock, and then resolved themselves into a committee of the whole and entered on the discussion. It appeared in the course of the debates that seven States: viz., New Hampshire, Massachusetts, Rhode Island, Connecticut, Virginia, North Carolina and Georgia, were decided for a separation; but that six others still hesitated, to wit: New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina. Congress, desirous of unanimity, and seeing that the public mind was advancing rapidly to it, referred the further discussion to the first of July, appointing, in the mean time, a committee to prepare a Declaration of Independence, a second to form articles for the confederation of the States, and a third to propose measures for obtaining foreign aid. On the 28th of June, the Declaration of Independence was reported to the House, and was laid on the table for the consideration of the members. On

the first day of July, they resolved themselves into a committee of the whole, and resumed the consideration of the motion of June 7th. It was debated through the day, and at length was decided in the affirmative by the vote of nine States: viz., New Hampshire, Massachusetts, Rhode Island, Connecticut, *New Jersey*, *Maryland*, Virginia, North Carolina, and Georgia. Pennsylvania and South Carolina voted against it. Delaware, having but two members present, was divided. The delegates from New York declared they were for it, and their constituents also; but that the instructions against it which had been given them a twelvemonth before, were still unrepealed; that their convention was to meet in a few days, and they asked leave to suspend their vote till they could obtain a repeal of their instructions. Observe that all this was in a committee of the whole Congress, and that according to the mode of their proceedings, the resolution of that committee to declare themselves independent, was to be put to the same persons re-assuming their form as a Congress. It was now evening, the members exhausted by a debate of nine hours, during which all the powers of the soul had been distended with the magnitude of the object—without refreshment, without a pause—and the delegates of South Carolina desired that the final decision might be put off to the next morning, that they might still weigh in their own minds their ultimate vote. It was put off, and in the morning of the second of July they

joined the other nine States in voting for it. The members of the Pennsylvania delegation too, who had been absent the day before, came in and turned the vote of their State in favor of independence; and a third member of the State of Delaware, who, hearing of the division in the sentiments of his two colleagues, had travelled post to arrive in time, now came in and decided the vote of that State also for the resolution. Thus twelve States voted for it at the time of its passage, and the delegates of New York, the thirteenth State, received instructions within a few days to add theirs to the general vote: so that, instead of the "egalité des suffrages" spoken of by M. Mayer, there was not a dissenting voice. Congress proceeded immediately to consider the Declaration of Independence which had been reported by their committee on the 28th of June. The several paragraphs of that were debated for three days: viz., the second, third, and fourth of July. In the evening of the fourth they were finally closed, and the instrument approved by an unanimous vote and signed by every member, *except Mr. Dickinson.* Look into the Journal of Congress of that day, Sir, and you will see the instrument and the names of the signers, and that Mr. Dickinson's name is not among them. Then read again those words of your paper: "il (M. Mayer) assure qu'une seule voix, un seul homme, prononça l'independance des états unis, ce fut John Dickinson. —l'Amerique lui doit une reconnaissance eternelle;

c'est Dickinson qui l'a affranchie." With my regrets, and my adieus to history, to travels, to Mayer, and to you, Sir, permit me to mingle assurances of the great respect with which I have the honor to be, Sir, your most obedient and most humble servant.

Memoranda taken on a Journey from Paris into the Southern Parts of France, and Northern of Italy, in the year 1787.

CHAMPAGNE. March 3. *Sens* to *Vermanton*. The face of the country is in large hills, not too steep for the plough, somewhat resembling the Elk hill, and Beaver-dam hills of Virginia. The soil is generally a rich mulatto loam, with a mixture of coarse sand and some loose stone. The plains of the Yonne are of the same color. The plains are in corn, the hills in vineyard, but the wine not good. There are a few apple trees, but none of any other kind, and no inclosures. No cattle, sheep, or swine; fine mules.

Few châteaux; no farm-houses, all the people being gathered in villages. Are they thus collected by that dogma of their religion, which makes them believe, that to keep the Creator in good humor with His own works, they must mumble a mass every day? Certain it is, that they are less happy and less virtuous in villages, than they would be insulated with their families on the grounds they cultivate. The people are illy clothed. Perhaps they

have put on their worst clothes at this moment, as it is raining. But I observe women and children carrying heavy burdens, and laboring with the hoe. This is an unequivocal indication of extreme poverty. Men, in a civilized country, never expose their wives and children to labor above their force and sex, as long as their own labor can protect them from it. I see few beggars. Probably this is the effect of a police.

BURGUNDY. March 4. *Lucy le bois. Cussy les forges. Rouvray. Maison-neuve. Vitteaux. La Chaleure. Pont de Panis. Dijon.* The hills are higher and more abrupt. The soil, a good red loam and sand, mixed with more or less grit, small stone, and sometimes rock. All in corn. Some forest wood here and there, broom, whins and holly, and a few inclosures of quick hedge. Now and then a flock of sheep.

The people are well clothed, but it is Sunday. They have the appearance of being well fed. The Château de Sevigny, near Cussy les forges, is a charming situation. Between Maison-neuve and Vitteaux the road leads through an avenue of trees, eight American miles long, in a right line. It is impossible to paint the ennui of this avenue. On the summits of the hills which border the valley in which Vitteaux is, there is a parapet of rock, twenty, thirty, or forty feet perpendicular, which crowns the hills. The tops are nearly level, and appear to be covered with earth. Very singular. Great

masses of rock in the hills between la Chaleure and Pont de Panis, and a conical hill in the approach to the last place.

Dijon. The tavern price of a bottle of the best wine (*e. g.* of Vaune) is four livres. The best round potatoes here I ever saw. They have begun a canal thirty feet wide, which is to lead into the Saone at ———. It is fed by springs. They are not allowed to take any water out of the riviere d'Ouche, which runs through this place, on account of the mills on that river. They talk of making a canal to the Seine, the nearest navigable part of which at present is fifteen leagues from hence. They have very light wagons here for the transportation of their wine. They are long and narrow; the fore wheels as high as the hind. Two pieces of wine are drawn by one horse in one of these wagons. The road in this part of the country is divided into portions of forty or fifty feet by stones, numbered, which mark the task of the laborers.

March 7 and 8. From *la Baraque* to *Chagny.* On the left are plains which extend to the Saone, on the right the ridge of mountains called the Cote. The plains are of a reddish-brown, rich loam, mixed with much small stone. The Cote has for its basis a solid rock, on which is about a foot of soil and small stone, in equal quantities, the soil red and of middling quality. The plains are in corn; the Cote in vines. The former have no inclosures, the latter is in small ones of dry stone wall. There is a good

deal of forest. Some small herds of small cattle and sheep. Fine mules, which come from Provence, and cost twenty louis. They break them at two years old, and they last to thirty.

The corn lands here rent for about fifteen livres the arpent. They are now planting, pruning, and sticking their vines. When a new vineyard is made, they plant the vines in gutters about four feet apart. As the vines advance, they lay them down. They put out new shoots, and fill all the intermediate space, till all trace of order is lost. They have ultimately about one foot square to each vine. They begin to yield good profit at five or six years old, and last one hundred, or one hundred and fifty years A vigneron at Voulenay carried me into his vineyard, which was of about ten arpents. He told me that some years it produced him sixty pieces of wine, and some, not more than three pieces. The latter is the most advantageous produce, because the wine is better in quality, and higher in price in proportion as less is made, and the expenses at the same time diminish in the same proportion. Whereas, when much is made, the expenses are increased, while the price and quality become less. In very plentiful years, they often give one half the wine for casks to contain the other half. The cask for two hundred and fifty bottles, costs six livres in scarce years, and ten in plentiful. The Feuillette is of one hundred and twenty-five bottles, the Piece of two hundred and fifty, and the Queue or Botte, of five

hundred. An arpent rents at from twenty to sixty livres. A farmer of ten arpents has about three laborers engaged by the year. He pays four louis to a man, and half as much to a woman, and feeds them. He kills one hog, and salts it, which is all the meat used in the family during the year. Their ordinary food is bread and vegetables. At Pommard and Voulenay, I observed them eating good wheat bread; at Meursault, rye. I asked the reason of this difference. They told me that the white wines fail in quality much oftener than the red, and remain on hand. The farmer, therefore, cannot afford to feed his laborers so well. At Meursault, only white wines are made, because there is too much stone for the red. On such slight circumstances depends the condition of man! The wines which have given such celebrity to Burgundy, grow only on the Cote, an extent of about five leagues long, and half a league wide. They begin at Chambertin, and go through Vougeau, Romanie, Veaune, Nuys, Beaune, Pommard, Voulenay, Meursault, and end at Monrachet. Those of the two last are white, the others red. Chambertin, Vougeau and Veaune are strongest, and will bear transportation and keeping. They sell, therefore, on the spot for twelve hundred livres the queue, which is forty-eight sous the bottle. Voulenay is the best of the other reds, equal in flavor to Chambertin, etc., but being lighter, will not keep, and therefore sells for not more than three hundred livres the queue, which is twelve sous the

bottle. It ripens sooner than they do, and consequently is better for those who wish to broach at a year old. In like manner of the white wines, and for the same reason, Monrachet sells for twelve hundred livres the queue (forty-eight sous the bottle), and Meursault of the best quality, viz., the Goutte d'or, at only one hundred and fifty livres (six sous the bottle). It is remarkable, that the best of each kind, that is, of the red and white, is made at the extremities of the line, to wit, at Chambertin and Monrachet. It is pretended that the adjoining vineyards produce the same qualities, but that belonging to obscure individuals, they have not obtained a name, and therefore sell as other wines. The aspect of the Cote is a little south of east. The western side is also covered with vines, and is apparently of the same soil, yet the wines are of the coarsest kinds. Such, too, are those which are produced in the plains; but there the soil is richer and less strong. Vougeau is the property of the monks of Citeaux, and produces about two hundred pieces. Monrachet contains about fifty arpents, and produces, one year with another, about one hundred and twenty pieces. It belongs to two proprietors only, Monsieur de Clarmont, who leases to some wine merchants, and the Marquis de Sarsnet, of Dijon, whose part is farmed to a Monsieur de la Tour, whose family for many generations have had the farm. The best wines are carried to Paris by land. The transportation costs thirty-six livres the

piece. The more indifferent go by water. Bottles cost four and a half sous each.

March 9. *Chalons. Sennecy. Tournus. St. Albin. Macon.* On the left are the fine plains of the Saone; on the right, high lands, rather waving than hilly, sometimes sloping gently to the plains, sometimes dropping down in precipices, and occasionally broken into beautiful valleys by the streams which run into the Saone. The plains are a dark rich loam, in pasture and corn; the heights more or less red or reddish, always gritty, of middling quality only, their sides in vines, and their summits in corn. The vineyards are inclosed with dry stone walls, and there are some quick hedges in the corn grounds. The cattle are few and indifferent. There are some good oxen, however. They draw by the head. Few sheep, and small. A good deal of wood lands.

I passed three times the canal called le Charollois, which they are opening from Chalons on the Saone to Dijon on the Loire. It passes near Chagny, and will be twenty-three leagues long. They have worked on it three years, and will finish it in four more. It will reanimate the languishing commerce of Champagne and Burgundy, by furnishing a water transportation for their wines to Nantes, which also will receive new consequence by becoming the emporium of that commerce. At some distance on the right are high mountains, which probably form the separation between the waters of the Saone and

Loire. Met a malefactor in the hands of one of the Marechausée; perhaps a dove in the talons of the hawk. The people begin now to be in separate establishments, and not in villages. Houses are mostly covered with tile.

Beaujolois. *Maison blanche. St. George. Château de Laye-Epinaye.* The face of the country is like that from Chalons to Macon. The plains are a dark rich loam, the hills a red loam of middling quality, mixed generally with more or less coarse sand and grit, and a great deal of small stone. Very little forest. The vineyards are mostly inclosed with dry stone wall. A few small cattle and sheep. Here, as in Burgundy, the cattle are all white.

This is the richest country I ever beheld. It is about ten or twelve leagues in length, and three, four, or five in breadth; at least, that part of it which is under the eye of the traveller. It extends from the top of a ridge of mountains, running parallel with the Saone, and sloping down to the plains of that river, scarcely anywhere too steep for the plough. The whole is thick set with farm-houses, chateaux, and the Bastides of the inhabitants of Lyons. The people live separately, and not in villages. The hill-sides are in vine and corn; the plains in corn and pasture. The lands are farmed either for money, or on half-stocks. The rents of the corn lands, farmed for money, are about ten or twelve livres the arpent. A farmer takes, perhaps, about one hundred and fifty arpents, for three, six, or nine years. The

first year they are in corn; the second in other small grain, with which he sows red clover. The third is for the clover. The spontaneous pasturage is of green sward, which they call fromenteau. When lands are rented on half-stocks, the cattle, sheep, etc., are furnished by the landlord. They are valued, and must be left of equal value. The increase of these, as well as the produce of the farm, is divided equally. These leases are only from year to year. They have a method of mixing beautifully the culture of vines, trees, and corn. Rows of fruit trees are planted about twenty feet apart. Between the trees, in the row, they plant vines four feet apart, and espalier them. The intervals are sowed alternately in corn, so as to be one year in corn, the next in pasture, the third in corn, the fourth in pasture, etc. One hundred toises of vines in length, yield generally about four pieces of wine. In Dauphiné, I am told, they plant vines only at the roots of the trees, and let them cover the whole trees. But this spoils both the wine and the fruit. Their wine when distilled, yields but one-third its quantity in brandy. The wages of a laboring man here, are five louis; of a woman, one half. The women do not work with the hoe; they only weed the vines, the corn, etc., and spin. They speak a patois very difficult to understand. I passed some time at the Chateau de Laye-Epinaye. Monsieur de Laye has a seignory of about fifteen thousand arpents, in pasture, corn, vines, and wood. He

has over this, as is usual, a certain jurisdiction, both criminal and civil. But this extends only to the first crude examination, which is before his judges. The subject is referred for final examination and decision, to the regular judicatures of the country. The Seigneur is keeper of the peace on his domains. He is therefore subject to the expenses of maintaining it. A criminal prosecuted to sentence and execution, costs M. de Laye about five thousand livres. This is so burdensome to the Seigneurs, that they are slack in criminal prosecutions. A good effect from a bad cause. Through all Champagne, Burgundy, and the Beaujolois, the husbandry seems good, except that they manure too little. This proceeds from the shortness of their leases. The people of Burgundy and Beaujolois are well clothed, and have the appearance of being well fed. But they experience all the oppressions which result from the nature of the general government, and from that of their particular tenures, and of the seignorial government to which they are subject. What a cruel reflection, that a rich country cannot long be a free one. M. de Laye has a Diana and Endymion, a very superior morsel of sculpture by Michael Angelo Slodtz, done in 1740. The wild gooseberry is in leaf; the wild pear and sweet briar in bud.

Lyons. There are some feeble remains here, of an amphitheatre of two hundred feet diameter, and of an aqueduct in brick. The Pont d'Ainay has

nine arches of forty feet from centre to centre. The piers are of six feet. The almond is in bloom.

Dauphiné. From *St. Fond* to *Mornas*. March 15, 16, 17, 18. The Rhone makes extensive plains, which lie chiefly on the eastern side, and are often in two stages. Those of Montelimart are three or four miles wide, and rather good. Sometimes, as in the neighborhood of Vienne, the hills come in precipices to the river, resembling then very much our Susquehanna and its hills, except that the Susquehanna is ten times as wide as the Rhone. The highlands are often very level. The soil, both of hill and plain, where there is soil, is generally tinged, more or less, with red. The hills are sometimes mere masses of rock, sometimes a mixture of loose stone and earth. The plains are always stony, and, as often as otherwise, covered perfectly with a coat of round stones, of the size of the fist, so as to resemble the remains of inundations, from which all the soil has been carried away. Sometimes they are middling good, sometimes barren. In the neighborhood of Lyons, there is more corn than wine. Towards Tains, more wine than corn. From thence, the plains, where best, are in corn, clover, almonds, mulberries, walnuts; where there is still some earth, they are in corn, almonds, and oaks. The hills are in vines. There is a good deal of forest-wood near Lyons, but not much afterwards. Scarcely any inclosures. There are a few small sheep before we reach Tains; there the number increases.

Nature never formed a country of more savage aspect, than that on both sides the Rhone. A huge torrent rushes like an arrow between high precipices, often of massive rock, at other times of loose stone, with but little earth. Yet has the hand of man subdued this savage scene, by planting corn where there is a little fertility, trees where there is still less, and vines where there is none. On the whole, it assumes a romantic, picturesque, and pleasing air. The hills on the opposite side of the river, being high, steep, and laid up in terraces, are of a singular appearance. Where the hills are quite in waste, they are covered with broom, whins, box, and some clusters of small pines. The high mountains of Dauphiné and Languedoc are now covered with snow. The almond is in general bloom, and the willow putting out its leaf. There were formerly olives at Pains; but a great cold, some years ago, killed them, and they have not been replanted. I am told at Montelimart, that an almond tree yields about three livres profit a year. Supposing them three toises apart, there will be one hundred to the arpent, which gives three hundred livres a year, besides the corn growing on the same ground. A league below Vienne, on the opposite side of the river, is Cote Rotie. It is a string of broken hills, extending a league on the river, from the village of Ampuys to the town of Condrieux. The soil is white, tinged a little, sometimes, with yellow, sometimes with red, stony, poor, and laid up in terraces. Those

parts of the hills only, which look to the sun at midday, or the earlier hours of the afternoon, produce wines of the first quality. Seven hundred vines, three feet apart, yield a feuillette, which is about two and a half pieces, to the arpent. The best red wine is produced at the upper end, in the neighborhood of Ampuys; the best white, next to Condrieux. They sell of the first quality and last vintage, at one hundred and fifty livres the piece, equal to twelve sous the bottle. Transportation to Paris is sixty livres, and the bottle four sous; so it may be delivered at Paris in bottles, at twenty sous. When old, it costs ten or eleven louis the piece. There is a quality which keeps well, bears transportation, and cannot be drunk under four years. Another must be drunk at a year old. They are equal in flavor and price.

The wine called Hermitage is made on the hills impending over the village of Tains; on one of which is the hermitage, which gives name to the hills for about two miles, and to the wine made on them. There are but three of those hills which produce wine of the first quality, and of these, the middle regions only. They are about three hundred feet perpendicular height, three-quarters of a mile in length, and have a southern aspect. The soil is scarcely tinged red, consists of small rotten stone, and is, where the best wine is made, without any perceptible mixture of earth. It is in sloping terraces. They use a little dung. An homme de

vignes, which consists of seven hundred plants, three feet apart, yields generally about three quarters of a piece, which is nearly four pieces to the arpent. When new, the piece is sold at about two hundred and twenty-five livres; when old, at three hundred. It cannot be drunk under four years, and improves fastest in a hot situation. There is so little white made in proportion to the red, that it is difficult to buy it separate. They make the white sell the red. If bought separately, it is from fifteen to sixteen louis the piece, new, and three livres the bottle, old. To give quality to the red, they mix one eighth of white grapes. Portage to Paris is seventy-two livres the piece, weighing six hundred pounds. There are but about one thousand pieces of both red and white, of the first quality, made annually. Vineyards are never rented here, nor are laborers in the vineyard hired by the year. They leave buds proportioned to the strength of the vine; sometimes as much as fifteen inches. The last hermit died in 1751.

In the neighborhood of Montelimart, and below that, they plant vines in rows, six, eight, or ten feet apart, and two feet asunder in the row, filling the intervals with corn. Sometimes the vines are in double rows, two feet apart. I saw single asses in ploughs proportioned to their strength. There are few chateaux in this province. The people, too, are mostly gathered into villages. There are, however, some scattering farm-houses. These are made

either of mud, or of round stone and mud. They make inclosures also, in both those ways. Day laborers receive sixteen or eighteen sous the day, and feed themselves. Those by the year receive, men three louis, women half that, and are fed. They rarely eat meat; a single hog salted, being the year's stock for a family. But they have plenty of cheese, eggs, potatoes and other vegetables, and walnut oil with their salad. It is a trade here, to gather dung along the road for their vines. This proves they have few cattle. I have seen neither hares nor partridges since I left Paris, nor wild fowl on any of the rivers. The roads from Lyons to St. Rambert, are neither paved nor gravelled. After that, they are coated with broken flint. The ferry boats on the Rhone and the Isere, are moved by the stream, and very rapidly. On each side of the river is a movable stage, one end of which is on an axle and two wheels, which, according to the tide, can be advanced or withdrawn, so as to apply to the gunwale of the boat. The Prætorian palace at Vienne is forty-four feet wide, of the Corinthian order, four columns in front, and four in flank. It was begun in the year 400, and finished by Charlemagne. The Sepulchral pyramid, a little way out of the town, has an order for its basement, the pedestal of which, from point to point of its cap, is twenty-four feet one inch. At each angle, is a column, engaged one fourth in the wall. The circumference of the three fourths disengaged, is four feet

four inches; consequently, the diameter is twenty-three inches. The base of the column indicates it to be Ionic, but the capitals are not formed. The cornice, too, is a bastard Ionic, without modillions or dentils. Between the columns, on each side, is an arch of eight feet four inches, opening with a pilaster on each side of it. On the top of the basement is a zocle, in the plane of the frieze below. On that is the pyramid, its base in the plane of the collarins of the pilaster below. The pyramid is a little truncated on its top. This monument is inedited.

March 18th. *Principality of Orange.* The plains on the Rhone here are two or three leagues wide, reddish, good, in corn, clover, almonds, olives. No forests. Here begins the country of olives, there being very few till we enter this principality. They are the only tree which I see planted among vines. Thyme grows wild here on the hills. Asses, very small, sell here for two or three louis. The high hills in Dauphiné are covered with snow. The remains of the Roman aqueduct are of brick: a fine piece of Mosaic, still on its bed, forming the floor of a cellar. Twenty feet of it still visible. They are taking down the circular wall of the amphitheatre to pave a road.

March 19th to 23d. Languedoc. *Pont St. Esprit. Bagnols. Connault. Valignieres. Remoulins. St. Gervasy. Nismes. Pont d'Arles.* To Remoulins, there is a mixture of hill and dale. Thence to Nismes, hills on the right, on the left, plains extend-

ing to the Rhone and the sea. The hills are rocky. Where there is soil, it is reddish and poor. The plains, generally reddish and good, but stony. When you approach the Rhone, going to Arles, the soil becomes a dark gray loam with some sand, and very good. The culture is corn, clover, St. foin, olives, vines, mulberries, willow, and some almonds. There is no forest. The hills are inclosed in dry stone wall. Many sheep.

From the summit of the first hill, after leaving Pont St. Esprit, there is a beautiful view of the bridge at about two miles distance, and a fine landscape of the country both ways. From thence, an excellent road, judiciously conducted, through very romantic scenes. In one part, descending the face of a hill, it is laid out in serpentine, and not zigzag, to ease the descent. In others, it passes through a winding meadow, from fifty to one hundred yards, walled, as it were, on both sides, by hills of rock; and at length issues into plain country. The waste hills are covered with thyme, box, and chene-vert. Where the body of the mountains has a surface of soil, the summit has sometimes a crown of rock, as observed in Champagne. At Nismes, the earth is full of limestone. The horses are shorn. They are now pruning the olive. A very good tree produces sixty pounds of olives, which yield fifteen pounds of oil; the best quality sells at twelve sous the pound retail, and ten sous, wholesale. The high hills of Languedoc still covered with snow. The horse

chestnut and mulberry are leafing; apple trees and peas blossoming. The first butterfly I have seen. After the vernal equinox, they are often six or eight months without rain. Many separate farm-houses, numbers of people in rags, and abundance of beggars. The mine of wheat, weighing thirty pounds, costs four livres and ten sous. Wheat bread, three sous the pound. Vin ordinaire, good, and of a strong body, two or three sous the bottle. Oranges, one sou apiece. They are nearly finishing at Nismes, a great mill, worked by a steam engine, which pumps water from a lower into an upper cistern, from whence two overshot wheels are supplied, each of which turns two pair of stones. The upper cistern being once filled with water, it passes through the wheels into the lower one, from whence it is returned to the upper by the pumps. A stream of water of one quarter or one half inch diameter, supplies the waste of evaporation, absorption, etc. This is furnished from a well by a horse. The arches of the Pont St. Esprit are of eighty-eight feet. Wild figs, very flourishing, grow out of the joints of the Pont du Gard. The fountain of Nismes is so deep, that a stone was thirteen seconds descending from the surface to the bottom.

March 24th. From *Nismes* to *Arles*. The plains extending from Nismes to the Rhone, in the direction of Arles, are broken in one place by a skirt of low hills. They are red and stony at first, but as you approach the Rhone, they are of a dark gray

mould, with a little sand, and very good. They are in corn and clover, vines, olives, almonds, mulberries, and willow. There are some sheep, no wood, no inclosures.

The high hills of Languedoc are covered with snow. At an ancient church, in the suburbs of Arles, are some hundreds of ancient stone coffins, along the roadside. The ground is thence called les champs elysées. In a vault in a church, are some curiously wrought, and in a back yard are many ancient statues, inscriptions, etc. Within the town, are a part of two Corinthian columns, and of the pediment with which they were crowned, very rich, having belonged to the ancient capitol of the place. But the principal monument here, is an amphitheatre, the external portico of which is tolerably complete. How many porticoes there were, cannot be seen: but at one of the principal gates, there are still five, measuring, from out to in, seventy-eight feet ten inches, the vault diminishing inwards. There are sixty-four arches, each of which is, from centre to centre, twenty feet six inches. Of course, the diameter is of four hundred and thirty-eight feet; or of four hundred and fifty feet, if we suppose the four principal arches a little larger than the rest. The ground-floor is supported on innumerable vaults. The first story, externally, has a tall pedestal, like a pilaster, between every two arches: the upper story, a column, the base of which would indicate it Corinthian. Every column is truncated

as low as the impost of the arch, but the arches are all entire. The whole of the upper entablature is gone, and of the Attic, if there was one. Not a single seat of the internal is visible. The whole of the inside, and nearly the whole of the outside, is masked by buildings. It is supposed there are one thousand inhabitants within the amphitheatre. The walls are more entire and firm than those of the amphitheatre at Nismes. I suspect its plan and distribution to have been very different from that.

Terrasson. The plains of the Rhone from Arles to this place, are a league or two wide: the mould is of a dark gray, good, in corn and lucerne. Neither wood, nor inclosures. Many sheep.

St. Remis. From Terrasson to St. Remis, is a plain of a league or two wide, bordered by broken hills of massive rock. It is gray and stony, mostly in olives. Some almonds, mulberries, willows, vines, corn, and lucerne. Many sheep. No forest, nor inclosures.

A laboring man's wages here, are one hundred and fifty livres, a woman's half, and fed. Two hundred and eighty pounds of wheat sell for forty-two livres. They make no butter here. It costs, when brought, fifteen sous the pound. Oil is ten sous the pound. Tolerably good olive trees yield, one with another, about twenty pounds of oil. An olive tree must be twenty years old before it has paid its own expenses. It lasts forever. In 1765, it was so cold that the Rhone was frozen over at Arles for two

months. In 1767, there was a cold spell of a week, which killed all the olive trees. From being fine weather, in one hour there was ice hard enough to bear a horse. It killed people on the road. The old roots of the olive trees put out again. Olive grounds sell for twenty-four livres a tree, and lease at twenty-four sous the tree. The trees are fifteen pieds apart. But lucerne is a more profitable culture. An arpent yields one hundred quintals of hay a year, worth three livres the quintal. It is cut four or five times a year. It is sowed in the broadcast, and lasts five or six years. An arpent of ground for corn, rents at from thirty to thirty-six livres. Their leases are for six or nine years. They plant willow for fire-wood, and for hoops to their casks. It seldom rains here in summer. There are some chateaux, many separate farm-houses, good, and ornamented in the small way, so as to show that the tenant's whole time is not occupied in procuring physical necessaries.

March 25th. *Orgon. Pontroyal. St. Cannat.* From Orgon to Pontroyal, after quitting the plains of the Rhone, the country seems still to be a plain, cut into compartments by chains of mountains of massive rock, running through it in various directions. From Pontroyal to St. Cannat, the land lies rather in basins. The soil is very various, gray and clay, gray and stony, red and stony; sometimes good, sometimes middling, often barren. We find some golden willows. Towards Pontroyal, the hills

begin to be in vines, and afterwards, in some pasture of green sward and clover. About Orgon are some inclosures of quick set, others of conical yews planted close. Towards St. Cannat, they begin to be of stone.

The high mountains are covered with snow. Some separate farm-houses of mud. Near Pontroyal is a canal for watering the country; one branch goes to Terrasson, the other to Arles.

March 25th, 26th, 27th, 28th. *Aix.* The country is waving, in vines, pasture of green sward and clover, much inclosed with stone, and abounding with sheep.

On approaching Aix, the valley which opens from thence towards the mouth of the Rhone and the sea, is rich and beautiful; a perfect grove of olive trees, mixed among which, are corn, lucerne, and vines. The waste grounds throw out thyme and lavender. Wheat bread is three sous the pound. Cow's milk sixteen sous the quart, sheep's milk six sous, butter of sheep's milk twenty sous the pound. Oil, of the best quality, is twelve sous the pound, and sixteen sous if it be virgin oil. This is what runs from the olive when put into the press, spontaneously; afterwards they are forced by the press and by hot water. Dung costs ten sous the one hundred pounds. Their fire-wood is chene-vert and willow. The latter is lopped every three years. An ass sells for from one to three louis; the best mules for thirty louis. The best asses will carry two hundred pounds; the best horses three hundred pounds; the best mules six hundred pounds. The temperature of the mineral

waters of Aix, is 90° of Fahrenheit's thermometer, at the spout. A mule eats half as much as a horse. The allowance to an ass for the day, is a handful of bran mixed with straw. The price of mutton and beef, about six and a half sous the pound. The beef comes from Auvergne, and is poor and bad. The mutton is small, but of excellent flavor. The wages of a laboring man are one hundred and fifty livres the year, a woman's sixty to sixty-six livres, and fed. Their bread is half wheat, half rye, made once in three or four weeks, to prevent too great a consumption. In the morning, they eat bread with an anchovy, or an onion. Their dinner in the middle of the day, is bread, soup, and vegetables. Their supper the same. With their vegetables, they have always oil and vinegar. The oil costs about eight sous the pound. They drink what is called piquette. This is made after the grapes are pressed, by pouring hot water on the pumice. On Sunday they have meat and wine. Their wood for building comes mostly from the Alps, down the Durance and Rhone. A stick of pine, fifty feet long, girting six feet and three inches at one end, and three feet three inches at the other, costs, delivered here, from fifty-four to sixty livres. Sixty pounds of wheat cost seven livres. One of their little asses will travel with his burden about five or six leagues a day, and day by day; a mule from six to eight leagues.[1]

[1] It is twenty American miles from Aix to Marseilles, and they call it five leagues. Their league, then, is of four American miles.

March 29. *Marseilles.* The country is hilly, intersected by chains of hills and mountains of massive rock. The soil is reddish, stony, and indifferent where best. Wherever there is any soil, it is covered with olives. Among these are corn, vines, some lucerne, mulberry, some almonds and willow. Neither inclosures, nor forest. A very few sheep.

On the road I saw one of those little whirlwinds which we have in Virginia, also some gullied hill-sides. The people are in separate establishments. Ten morning observations of the thermometer, from the 20th to the 31st of March inclusive, made at Nismes, St. Remis, Aix and Marseilles, give me an average of $52\frac{1}{2}°$, and 46° and 61° for the greatest and least morning heats. Nine afternoon observations, yield an average of $62\frac{2}{3}°$, and 57° and 66° the greatest and least. The longest day here, from sunrise to sunset, is fifteen hours and fourteen minutes; the shortest is eight hours and forty-six minutes; the latitude being ———. There are no tides in the Mediterranean. It is observed to me, that the olive tree grows nowhere more than thirty leagues distant from that sea. I suppose, however, that both Spain and Portugal furnish proofs to the contrary, and doubt its truth as to Asia, Africa, and America. They are six or eight months at a time, here, without rain. The most delicate figs known in Europe, are those growing about this place, called figues Marcelloises, or les veritables Marcelloises, to

distinguish them from others of inferior quality growing here. These keep any length of time. All others exude a sugar in the spring of the year, and become sour. The only process for preserving them, is drying them in the sun, without putting anything to them whatever. They sell at fifteen sous the pound, while there are others as cheap as five sous the pound. I meet here a small dried grape from Smyrna without a seed. There are few of the plants growing in this neighborhood. The best grape for drying known here, is called des Panses. They are very large, with a thick skin and much juice. They are best against a wall of southern aspect, as their abundance of juice requires a great deal of sun to dry it. Pretty good fig trees are about the size of the apricot tree, and yield about twenty pounds of figs when dry, each. But the largest will yield the value of a louis. They are sometimes fifteen inches in diameter. It is said the Marseilles fig degenerates when transported into any other part of the country. The leaves of the mulberry tree will sell for about three livres, the purchaser gathering them. The caper is a creeping plant. It is killed to the roots every winter. In the spring it puts out branches, which creep to the distance of three feet from the centre. The fruit forms on the stem as that extends itself, and must be gathered every day as it forms. This is the work of women. The pistache grows in this neighborhood also, but not very good. They eat

them in their milky state. Monsieur de Bergasse has a wine cellar two hundred and forty pieds long, in which are one hundred and twenty tuns, of from fifty to one hundred pieces each. These tuns are twelve pieds diameter; the staves four inches thick, the heading two and a half pouces thick. The temperature of his cellar is of $9\frac{1}{2}°$ of Reaumur. The best method of packing wine, when bottled, is to lay the bottles on their side, and cover them with sand. The 2d of April, the young figs are formed; the 4th we have Windsor beans. They have had asparagus ever since the middle of March. The 5th, I see strawberries and the Guelder rose in blossom. To preserve the raisin, it is first dipped into ley and then dried in the sun. The aloe grows in the open ground. I measured a mule, not the largest, five feet and two inches high. Marseilles is in an amphitheatre, at the mouth of the Vaune, surrounded by high mountains of naked rock, distant two or three leagues. The country within that amphitheatre is a mixture of small hills, valleys, and plains. The latter are naturally rich. The hills and valleys are forced into production. Looking from the Chateau de Notre Dame de la Garde, it would seem as if there was a Bastide for every arpent. The plain land sells for one hundred louis the caterelle, which is less than an acre. The ground of the arsenal in Marseilles, sold for from fifteen to forty louis the square verge, being nearly the square yard English. In the fields open to the sea,

they are obliged to plant rows of canes, every here and there, to break the force of the wind. Saw at the Chateau Borelli, pumps worked by the wind.

April 6. From *Marseilles* to *Aubagne*. A valley on the Vaune, bordered on each side by high mountains of massive rock, on which are only some small pines. The interjacent valley is of small hills, valleys and plains, reddish, gravelly, and originally poor, but fertilized by art, and covered with corn, vines, olives, figs, almonds, mulberries, lucerne and clover. The river is twelve or fifteen feet wide, one or two feet deep, and rapid.

From *Aubagne* to *Cuges*, *Beausset*, *Toulon*. The road quitting the Vaune and its wealthy valley, a little after Aubagne, enters those mountains of rock, and is engaged with them about a dozen miles. Then it passes six or eight miles through a country still very hilly and stony, but laid up in terraces, covered with olives, vines and corn. It then follows for two or three miles a hollow between two of those high mountains, which has been found or made by a small stream. The mountains then, reclining a little from their perpendicular, and presenting a coat of soil, reddish and tolerably good, have given place to the little village of Olioules, in the gardens of which are oranges in the open ground. It continues hilly till we enter the plain of Toulon. On different parts of this road there are figs in the open fields. At Cuges, is a plain of about three-fourths of a mile in diameter, surrounded by high moun-

tains of rock. In this, the caper is principally cultivated. The soil is mulatto, gravelly, and of middling quality, or rather indifferent. The plants are set in quincunx, about eight feet apart. They have been covered during winter by a hill of earth a foot high. They are now inclosing, pruning and ploughing them.

Toulon. From Olioules to Toulon, the figs are in the open fields. Some of them have stems of fifteen inches diameter. They generally fork near the ground, but sometimes have a single stem of five feet long. They are as large as apricot trees. The olive trees of this day's journey are about the size of large apple trees. The people are in separate establishments. Toulon is in a valley at the mouth of the Goutier, a little river of the size of the Vaune; surrounded by high mountains of naked rock, leaving some space between them and the sea. This space is hilly, reddish, gravelly, and of middling quality, in olives, vines, corn, almonds, figs and capers. The capers are planted eight feet apart. A bush yields, one year with another, two pounds, worth twelve sous the pound. Every plant then, yields twenty-four sous, equal to one shilling sterling. An acre containing six hundred and seventy-six plants, would yield thirty-three pounds sixteen shillings sterling. The fruit is gathered by women, who can gather about twelve pounds a day. They begin to gather about the last of June, and end about the middle of October. Each plant must

be picked every day. These plants grow equally well in the best or worst soil, or even in the walls where there is no soil. They will last the life of a man or longer. The heat is so great at Toulon in summer, as to occasion very great cracks in the earth. Where the caper is in a soil that will admit it, they plough it. They have peas here through the winter, sheltering them occasionally; and they have had them ever since the 25th of March without shelter.

April 6. *Hieres.* This is a plain of two or three miles diameter, bounded by the sea on one side, and mountains of rock on the other. The soil is reddish, gravelly, tolerably good and well watered. It is in olives, mulberries, vines, figs, corn, and some flax. There are also some cherry trees. From Hieres to the sea, which is two or three miles, is a grove of orange trees, olives, and mulberries. The largest orange tree is of two feet diameter one way, and one foot the other, (for the section of all the larger ones would be an oval, not a round,) and about twenty feet high. Such a tree will yield about six thousand oranges a year. The garden of M. Fille, has fifteen thousand six hundred orange trees. Some years they yield forty thousand livres, some only ten thousand; but generally about twenty-five thousand. The trees are from eight to ten feet apart. They are blossoming and bearing all the year, flowers and fruit in every stage, at the same time. But the best fruit is that which is

gathered in April and May. Hieres is a village of about five thousand inhabitants, at the foot of a mountain which covers it from the north, and from which extends a plain of two or three miles to the sea-shore. It has no port. Here are palm trees twenty or thirty feet high, but they bear no fruit. There is also a botanical garden kept by the King. Considerable salt ponds here. Hieres is six miles from the public road. It is built on a narrow spur of the mountain. The streets in every direction are steep, in steps of stairs, and about eight feet wide. No carriage of any kind can enter it. The wealthiest inhabitants use *chaises a porteurs*. But there are few wealthy, the bulk of the inhabitants being laborers of the earth. At a league's distance in the sea, is an island on which is the Chateau de Geans, belonging to the Marquis de Pontoives; there is a causeway leading to it. The cold of the last November killed the leaves of a great number of the orange trees, and some of the trees themselves.

From Hieres to *Cuers*, *Pignans*, *Luc*, is mostly a plain, with mountains on each hand, at a mile or two distance. The soil is generally reddish, and the latter part very red and good. The growth is, olives, figs, vines, mulberries, corn, clover, and lucerne. The olive trees are from three to four feet in diameter. There are hedges of pomegranates, sweetbriar, and broom. A great deal of thyme growing wild. There are some inclosures of stone; some sheep and goats.

April 9th. From Luc to *Vidauban*, *Muy*, *Frejus*, the road leads through valleys, and crosses occasionally the mountains which separate them. The valleys are tolerably good, always red and stony, gravelly or gritty. Their produce as before. The mountains are barren.

Lesterelle, *Napoule*. Eighteen miles of ascent and descent, of a very high mountain. Its growth, where capable of any, two-leaved pine, very small, and some chene-vert.

Antibes, *Nice*. From Napoule, the road is generally near the sea, passing over little hills or strings of valleys, the soil stony, and much below mediocrity in its quality. Here and there, is a good plain.

There is snow on the high mountains. The first frogs I have heard, are of this day (the 9th). At Antibes are oranges in the open ground, but in small inclosures; palm trees also. From thence to the Var, are the largest fig trees and olive trees I have seen. The fig trees are eighteen inches in diameter, and six feet stem; the olives, sometimes six feet in diameter, and as large heads as the largest low-ground apple trees. This tree was but a shrub where I first fell in with it, and has become larger and larger to this place. The people are mostly in villages. The several provinces, and even cantons are distinguished by the form of the women's hats, so that one may know of what canton a woman is, by her hat.

Nice. The pine bur is used here for kindling fires.

The people are in separate establishments. With respect to the orange, there seems to be no climate on this side of the Alps, sufficiently mild in itself to preserve it without shelter. At Olioules, they are between two high mountains; at Hieres, covered on the north by a very high mountain; at Antibes and Nice, covered by mountains, and also within small high enclosures. Quere. To trace the true line from east to west, which forms the northern and natural limit of that fruit? Saw an elder tree (sambucus) near Nice, fifteen inches in diameter, and eight feet stem. The wine made in this neighborhood is good, though not of the first quality. There are one thousand mules, loaded with merchandise, which pass every week between Nice and Turin, counting those coming as well as going.

April 13th. *Scarena. Sospello.* There are no orange trees after we leave the environs of Nice. We lose the olive after rising a little above the village of Scarena, on Mount Braus, and find it again on the other side, a little before we get down to Sospello. But wherever there is soil enough, it is terraced, and in corn. The waste parts are either in two-leaved pine and thyme, or of absolutely naked rock. Sospello is on a little torrent, called Bevera, which runs into the river Roia, at the mouth of which is Ventimiglia. The olive trees on the mountain, are now loaded with fruit; while some at Sospello are in blossom. Firewood here and at Scarena, costs fifteen sous the quintal.

April 14th. *Ciandola. Tende.* In crossing Mount Brois, we lose the olive tree after getting to a certain height, and find it again on the other side at the village of Breglio. Here we come to the river Roia, which, after receiving the branch on which is Sospello, leads to the sea at Ventimiglia. The Roia is about twelve yards wide, and abounds with speckled trout. Were a road made from Breglio, along the side of the Roia, to Ventimiglia, it might turn the commerce of Turin to this last place instead of Nice; because it would avoid the mountains of Braus and Brois, leaving only that of Tende; that is to say, it would avoid more than half the difficulties of the passage. Further on, we come to the Chateau di Saorgio, where a scene is presented, the most singular and picturesque I ever saw. The castle and village seem hanging to a cloud in front. On the right, is a mountain cloven through, to let pass a gurgling stream; on the left, a river, over which is thrown a magnificent bridge. The whole forms a basin, the sides of which are shagged with rocks, olive trees, vines, herds, etc. Near here, I saw a tub wheel without a ream; the trunk descended from the top of the waterfall to the wheel, in a direct line, but with the usual inclination. The produce along this passage, is most generally olives, except on the heights as before observed; also corn, vines, mulberries, figs, cherries, and walnuts. They have cows, goats, and sheep. In passing on towards Tende, olives fail us ultimately at the village of

Fontan, and there the chestnut trees begin in good quantity. Ciandola consists of only two houses, both taverns. Tende is a very inconsiderable village, in which they have not yet the luxury of glass windows; nor in any of the villages on this passage, have they yet the fashion of powdering the hair. Common stone and limestone are so abundant, that the apartments of every story are vaulted with stone, to save wood.

April 15th. *Limone. Coni.* I see abundance of limestone as far as the earth is uncovered with snow; *i. e.*, within half or three-quarters of an hour's walk of the top. The snows descend much lower on the eastern than the western side. Wherever there is soil, there is corn quite to the commencement of the snows, and I suppose under them also. The waste parts are in two-leaved pine, lavender and thyme. From the foot of the mountain to Coni, the road follows a branch of the Po, the plains of which being narrow, and widen at length into a general plain country, bounded on one side by the Alps. They are good, dark colored, sometimes tinged with red, and in pasture, corn, mulberries, and some almonds. The hillsides bordering these plains, are reddish, and where they admit of it, are in corn; but this is seldom. They are mostly in chestnut, and often absolutely barren. The whole of the plains are plentifully watered from the river, as is much of the hillside. A great deal of golden willow all along the rivers, on the whole of this passage through the

Alps. The southern parts of France, but still more the passage through the Alps, enable one to form a scale of the tenderer plants, arranging them according to their several powers of resisting cold. Ascending three different mountains, Braus, Brois, and Tende, they disappear one after another; and descending on the other side, they show themselves again one after another. This is their order, from the tenderest to the hardiest. Caper, orange, palm, aloe, olive, pomegranate, walnut, fig, almond. But this must be understood of the plant; for as to the fruit, the order is somewhat different. The caper, for example, is the tenderest plant, yet being so easily protected, it is the most certain in its fruit. The almond, the hardiest plant, loses its fruit the oftenest, on account of its forwardness. The palm, hardier than the caper and the orange, never produces perfect fruit in these parts. Coni is a considerable town, and pretty well built. It is walled.

April 16th. *Centale. Savigliano. Racconigi. Poerino. Turin.* The Alps, as far as they are in view from north to south, show the gradation of climate, by the line which terminates the snows lying on them. This line begins at their foot northwardly, and rises, as they pass on to the south, so as to be half way up their sides on the most southern undulations of the mountain, now in view. From the mountains to Turin, we see no tree tenderer than the walnut. Of these, as well as of almonds and mulberries, there are a few; somewhat more of

vines, but most generally, willows and poplars. Corn is sowed with all these. They mix with them also clover and small grass. The country is a general plain; the soil dark, and sometimes, though rarely, reddish. It is rich, and much infested with wild onions. At Racconigi, I see the tops and shocks of maize, which prove it is cultivated here; but it can be in small quantities only, because I observe very little ground, but what has already something else in it. Here and there, are small patches prepared, I suppose, for maize. They have a method of planting the vine, which I have not seen before. At intervals of about eight feet, they plant from two to six plants of vine in a cluster. At each cluster they fix a forked staff, the plane of the prongs of the fork at a right angle with the row of vines. Athwart these prongs they lash another staff, like a handspike, about eight feet long, horizontally, seven or eight feet from the ground. Of course, it crosses the rows at right angles. The vines are brought from the foot of the fork up to this cross piece, turned over it, and conducted along over the next, the next, and so on, as far as they will extend, the whole forming an arbor eight feet wide and high, and of the whole length of the row, little interrupted by the stems of the vines, which being close around the fork, pass up through hoops, so as to occupy a space only of smaller diameter. All the buildings in this country are of brick, sometimes covered with plaster, sometimes not. There

is a very large and handsome bridge of seven arches over the torrent of Sangone. We cross the Po, in swinging batteaux. Two are placed side by side, and kept together by a plank floor, common to both and lying on the gunwales. The carriage drives on this, without taking out any of the horses. About one hundred and fifty yards up the river, is a fixed stake, and a rope tied to it, the other end of which is made fast to one side of the batteaux, so as to throw them oblique to the current. The stream then acting on them, as on an inclined plane, forces them across the current in the portion of a circle of which the rope is the radius. To support the rope in its whole length, there are two intermediate canoes, about fifty yards apart, in the heads of which are short masts. To the top of these, the rope is lashed, the canoes being free otherwise to concur with the general vibration, in their smaller arcs of circles. The Po is there, about fifty yards wide, and about one hundred in the neighborhood of Turin.

April 17th, 18th. *Turin.* The first nightingale I have heard this year, is to-day (18th). There is a red wine of Nebiule made in the neighborhood, which is very singular. It is about as sweet as the silky Madeira, as astringent on the palate as Bordeaux, and as brisk as Champagne. It is a pleasing wine. At Moncaglieri, about six miles from Turin, on the right side of the Po, begins a ridge of mountains, which, following the Po by Turin, after some

distance, spreads wide, and forms the duchy of Montferrat. The soil is mostly red, and in vines, affording a wine called Montferrat, which is thick and strong.

April 19th. *Settimo. Chivasco. Ciliano. S. Germano. Vercelli.* The country continues plain and rich, the soil black. The culture, corn, pasture, maize, vines, mulberries, walnuts, some willow and poplar. The maize bears a very small proportion to the small grain. The earth is formed into ridges from three to four feet wide, and the maize sowed in the broadcast on the higher parts of the ridge, so as to cover a third or half of the whole surface. It is sowed late in May. This country is plentifully and beautifully watered at present. Much of it is by torrents which are dry in summer. These torrents make a great deal of waste ground, covering it with sand and stones. These wastes are sometimes planted in trees, sometimes quite unemployed. They make hedges of willows, by setting the plants from one to three feet apart. When they are grown to the height of eight or ten feet, they bend them down, and interlace them one with another. I do not see any of these, however, which are become old. Probably, therefore, they soon die. The women here smite on the anvil, and work with the maul and spade. The people of this country are ill dressed in comparison with those of France, and there are more spots of uncultivated ground. The plough here is made with a single handle, which is a

beam twelve feet long, six inches in diameter below, and tapered to about two inches at the upper end. They use goads for the oxen, not whips. The first swallows I have seen, are to-day. There is a wine called Gatina, made in the neighborhood of Vercelli, both red and white. The latter resembles Calcavallo. There is also a red wine of Salusola which is esteemed. It is very light. In the neighborhood of Vercelli begin the rice fields. The water with which they are watered is very dear. They do not permit rice to be sown within two miles of the cities on account of the insalubrity. Notwithstanding this, when the water is drawn off the fields in August, the whole country is subject to agues and fevers. They estimate that the same measure of ground yields three times as much rice as wheat, and with half the labor. They are now sowing. As soon as sowed, they let on the water, two or three inches deep. After six weeks, or two months, they draw it off to weed; then let it on again, and it remains till August, when it is drawn off, about three or four weeks before the grain is ripe. In September they cut it. It is first threshed, then beaten in the mortar to separate the husk, then by different siftings it is separated into three qualities. Twelve rupes, equal to three hundred pounds of twelve ounces each, sell for sixteen livres, money of Piedmont, where the livre is exactly the shilling of England. Twelve rupes of maize sell for nine livres. The machine for separating the husk is thus made. In the axis of a

water-wheel are a number of arms inserted, which, as they revolve, catches each the cog of a pestle, lifts it to a certain height, and lets it fall again. These pestles are five and a quarter inches square, ten feet long, and at their lower end formed into a truncated cone of three inches diameter, where cut off. The conical part is covered with iron. The pestles are ten and a half inches apart in the clear. They pass through two horizontal beams, which string them, as it were, together, and while the mortises in the beams are so loose, as to let the pestles work vertically, it restrains them to that motion. There is a mortar of wood, twelve or fifteen inches deep, under each pestle, covered with a board, the hole of which is only large enough to let the pestle pass freely. There are two arms in the axis for every pestle, so that the pestle gives two strokes for every revolution of the wheel. Poggio, a muleteer, who passes every week between Vercelli and Genoa, will smuggle a sack of rough rice for me to Genoa; it being death to export it in that form. They have good cattle, and in good number, mostly cream-colored; and some middle-sized sheep. The streams furnish speckled trout.

April 20th. *Novara. Buffalora. Sedriano. Milan.* From Vercelli to Novara the fields are all in rice, and now mostly under water. The dams separating the several water-plats, or ponds, are set in willow. At Novara there are some figs in the gardens, in situations well protected. From Novara

to the Ticino, it is mostly stony and waste, grown up in broom. From Ticino to Milan, it is all in corn. Among the corn are willows, principally a good many mulberries, some walnuts, and here and there an almond. The country still a plain, the soil black and rich, except between Novara and the Ticino, as before mentioned. There is very fine pasture round Vercelli and Novara to the distance of two miles, within which rice is not permitted. We cross the Sisto on the same kind of vibrating or pendulum boat as on the Po. The river is eighty or ninety yards wide; the rope fastened to an island two hundred yards above, and supported by five intermediate canoes. It is about one and a half inches in diameter. On these rivers they use a short oar of twelve feet long, the flat end of which is hooped with iron, shooting out a prong at each corner, so that it may be used occasionally as a setting pole. There is snow on the Apennines, near Genoa. They have still another method here of planting the vine. Along rows of trees, they lash poles from tree to tree. Between the trees are set vines, which, passing over the pole, are carried on to the pole of the next tree, whose vines are in like manner brought to this, and twined together, thus forming the intervals between the rows of trees alternately into arbors and open space. They have another method also of making quick-set hedges. Willows are planted from one to two feet apart, and interlaced, so that every one is crossed by three or four others.

April 21st, 22d. *Milan.* Figs and pomegranates grow here unsheltered, as I am told. I saw none, and therefore suppose them rare. They had formerly olives; but a great cold in 1709 killed them, and they have not been replanted. Among a great many houses painted *al fresco*, the Casa Roma and Casa Candiani, by Appiani, and Casa Belgioiosa, by Martin, are superior. In the second is a small cabinet, the ceiling of which is in small hexagons, within which are cameos and heads painted alternately, no two the same. The salon of the Casa Belgioiosa is superior to anything I have ever seen. The mixture called Scaiola, of which they make their walls and floors, is so like the finest marble as to be scarcely distinguishable from it. The nights of the 20th and 21st instant the rice ponds froze half an inch thick. Drouths of two or three months are not uncommon here in summer. About five years ago, there was such a hail as to kill cats. The Count del Verme tells me of a pendulum odometer for the wheel of a carriage. Leases here are mostly for nine years. Wheat costs a louis d'or the one hundred and forty pounds. A laboring man receives sixty livres, and is fed and lodged. The trade of this country is principally rice, raw silk, and cheese.

April 23d. *Casino*, five miles from Milan. I examined another rice-beater of six pestles. They are eight feet nine inches long. Their ends, instead of being a truncated cone, have nine teeth of irou, bound closely together. Each tooth is a double

pyramid, joined at the base. When put together, they stand with the upper ends placed in contact, so as to form them into one great cone, and the lower ends diverging. The upper are socketed into the end of the pestle, and the lower, when a little blunted by use, are not unlike the jaw teeth of the mammoth, with their studs. They say here, that pestles armed with these teeth, clean the rice faster, and break it less. The mortar, too, is of stone, which is supposed as good as wood, and more durable. One half of these pestles are always up. They rise about twenty-one inches, and each makes thirty-eight strokes in a minute; one hundred pounds of rough rice is put into the six mortars, and beaten somewhat less than a quarter of an hour. It is then taken out, put into a sifter of four feet diameter, suspended horizontally; sifted there; shifted into another of the same size; sifted there; returned to the mortars; beaten little more than a quarter of an hour; sifted again; and it is finished. The six pestles will clear four thousand pounds in twenty-four hours. The pound here is twenty-eight ounces; the ounce equal to that of Paris. The best rice requires half an hour's boiling; a more indifferent kind, somewhat less. To sow the rice, they first plough the ground, then level it with a drag harrow, and let on the water; when the earth has become soft, they smooth it with a shovel under the water, and then sow the rice in the water.

Rozzano. Parmesan cheese. It is supposed this

was formerly made at Parma, and took its name thence, but none is made there now. It is made through all the country extending from Milan for one hundred and fifty miles. The most is made about Lodi. The making of butter being connected with that of making cheese, both must be described together. There are, in the stables I saw, eighty-five cows, fed on hay and grass, not on grain. They are milked twice in twenty-four hours, ten cows yielding at the two milkings a *brenta* of milk, which is twenty-four of our gallons. The night's milk is scummed in the morning at daybreak, when the cows are milked again, and the new milk mixed with the old. In three hours, the whole mass is scummed a second time, the milk remaining in a kettle for cheese, and the cream being put into a cylindrical churn, shaped like a grindstone, eighteen inches radius, and fourteen inches thick. In this churn there are three staves pointing inwardly, endwise, to break the current of the milk. Through its centre passes an iron axis, with a handle at each end. It is turned about an hour and a half by two men till the butter is produced. Then they pour off the buttermilk, and put in some water which they agitate backwards and forwards about a minute, and pour it off. They take out the butter, press it with their hands into loaves, and stamp it. It has no other washing. Sixteen American gallons of milk yield fifteen pounds of butter, which sell at twenty-four sous the pound.

The milk, which, after being scummed as before, had been put into a copper kettle, receives its due quantity of rennet, and is gently warmed, if the season requires it. In about four hours it becomes a slip. Then the whey begins to separate. A little of it is taken out. The curd is then thoroughly broken by a machine like a chocolate mill. A quarter of an ounce of saffron is put to seven brenta of milk, to give color to the cheese. The kettle is then moved over the hearth, and heated by a quick fire till the curd is hard enough, being broken into small lumps by continued stirring. It is moved off the fire, most of the whey taken out, the curd compressed into a globe by the hand, a linen cloth slipped under it, and it is drawn out in that. A loose hoop is then laid on a bench, and the curd, as wrapped in the linen, is put into the hoop; it is a little pressed by the hand, the hoop drawn tight and made fast. A board two inches thick is laid on it, and a stone on that of about twenty pounds weight. In an hour, the whey is run off, and the cheese finished. They sprinkle a little salt on it every other day in summer, and every day in winter, for six weeks. Seven brentas of milk make a cheese of fifty pounds, which requires six months to ripen, and is then dried to forty-five pounds. It sells on the spot for eighty-eight livres the one hundred pounds. There are now one hundred and fifty cheeses in this dairy. They are nineteen inches diameter, and six inches thick. They make a cheese a day in

summer, and two in three days, or one in two days, in winter.

The whey is put back into the kettle, the buttermilk poured into it, and of this, they make a poor cheese for the country people. The whey of this is given to the hogs. Eight men suffice to keep the cows, and to do all the business of this dairy. Mascarponi, a kind of curd, is made by pouring some buttermilk into cream, which is thereby curdled, and is then pressed into a linen cloth.

The ice-houses at Rozzano are dug about fifteen feet deep, and twenty feet diameter, and poles are driven down all round. A conical thatched roof is then put over them, fifteen feet high, and pieces of wood are laid at the bottom, to keep the ice out of the water which drips from it, and goes off by a sink. Straw is laid on this wood, and then the house filled with ice, always putting straw between the ice and the walls, and covering ultimately with straw. About a third is lost by melting. Snow gives the most delicate flavor to creams; but ice is the most powerful congealer, and lasts longest. A tuft of trees surrounds these ice-houses.

Round Milan, to the distance of five miles, are corn, pasture, gardens, mulberries, willows, and vines. For in this State, rice ponds are not permitted within five miles of the cities.

Binasco. Pavia. Near Cassino the rice ponds begin, and continue to within five miles of Pavia, the whole ground being in rice, pasture, and willows.

The pasture is in the rice grounds which are resting. In the neighborhood of Pavia, again, are corn, pasture, etc., as round Milan. They gave me green peas at Pavia.

April 24th. *Voghera. Tortona. Novi.* From Pavia to Novi, corn, pasture, vines, mulberries, willows; but no rice. The country continues plain, except that the Apennines are approaching on the left. The soil, always good, is dark till we approach Novi, and then red. We cross the Po where it is three hundred yards wide, in a pendulum boat. The rope is fastened on one side of the river, three hundred yards above, and supported by eight intermediate canoes, with little masts in them to give a greater elevation to the rope. We pass in eleven minutes. Women, girls, and boys are working with the hoe, and breaking the clods with mauls.

April 25th. *Voltaggio. Campo-Marone. Genoa.* At Novi, the Apennines begin to rise. Their growth of timber is oak, tall, small and knotty, and chestnut. We soon lose the walnut, ascending, and find it again, about one-fourth of the way down, on the south side. About half way down, we find figs and vines, which continue fine and in great abundance. The Apennines are mostly covered with soil, and are in corn, pasture, mulberries, and figs, in the parts before indicated. About half way from their foot to Genoa, at Campo-Marone, we find again the olive tree. Hence the produce becomes mixed, of all the kinds before mentioned. The method of

sowing the Indian corn at Campo-Marone, is as follows: With a hoe shaped like the blade of a trowel, two feet long, and six inches broad at its upper end, pointed below, and a little curved, they make a trench. In that, they drop the grains six inches apart. Then two feet from that, they make another trench, throwing the earth they take out of that on the grain of the last one, with a singular sleight and quickness; and so through the whole piece. The last trench is filled with the earth adjoining.

April 26th. *Genoa.* Strawberries at Genoa. Scaffold poles for the upper parts of a wall, as for the third story, rest on the window sills of the story below. Slate is used here for paving, for steps, for stairs, (the rise as well as tread) and for fixed Venetian blinds. At the Palazzo Marcello Durazzo, benches with straight legs, and bottoms of cane. At the Palazzo del prencipe Lomellino, at Sestri, a phaeton with a canopy. At the former, tables folding into one plane. At Nervi they have peas, strawberries, etc., all the year round. The gardens of the Count Durazzo at Nervi exhibit as rich a mixture of the *utile dulci*, as I ever saw. All the environs in Genoa, are in olives, figs, oranges, mulberries, corn, and garden stuff. Aloes in many places, but they never flower.

April 28th. *Noli.* The Apennine and Alps appear to me, to be one and the same continued ridge of mountains, separating everywhere the waters of the Adriatic Gulf from those of the Mediterranean.

Where it forms an elbow, touching the Mediterranean, as a smaller circle touches a larger, within which it is inscribed, in the manner of a tangent, the name changes from Alps to Apennine. It is the beginning of the Apennine which constitutes the State of Genoa, the mountains there generally falling down in barren naked precipices into the sea. Wherever there is soil on the lower parts, it is principally in olives and figs, in vines also, mulberries and corn. Where there are hollows well protected, there are oranges. This is the case at Golfo de Laspeze, Sestri, Bugiasco, Nervi, Genoa, Pegli, Savona, Finale, Oneglia, (where there are abundance,) St. Remo, Ventimiglia, Mantone, and Monaco. Noli, into which I was obliged to put, by a change of wind, is forty miles from Genoa. There are twelve hundred inhabitants in the village, and many separate houses round about. One of the precipices hanging over the sea is covered with aloes. But neither here, nor anywhere else I have been, could I procure satisfactory information that they ever flower. The current of testimony is to the contrary. Noli furnishes many fishermen. Paths penetrate up into the mountains in several directions, about three-fourths of a mile; but these are practicable only for asses and mules. I saw no cattle nor sheep in the settlement. The wine they make, is white and indifferent. A curious cruet for oil and vinegar in one piece, I saw here. A bishop resides here, whose revenue is two thousand livres,

equal to sixty-six guineas. I heard a nightingale here.

April 29th. *Albenga.* In walking along the shore from Louano to this place, I saw no appearance of shells. The tops of the mountains are covered with snow, while there are olive trees, etc., on the lower parts. I do not remember to have seen assigned anywhere, the cause of the apparent color of the sea. Its water is generally clear and colorless, if taken up and viewed in a glass. That of the Mediterranean is remarkably so. Yet in the mass, it assumes, *by reflection*, the color of the sky or atmosphere, black, green, blue, according to the state of the weather. If any person wished to retire from his acquaintance, to live absolutely unknown, and yet in the midst of physical enjoyments, it should be in some of the little villages of this coast, where air, water and earth concur to offer what each has most precious. Here are nightingales, beccaficas, ortolans, pheasants, partridges, quails, a superb climate, and the power of changing it from summer to winter at any moment, by ascending the mountains. The earth furnishes wine, oil, figs, oranges, and every production of the garden, in every season. The sea yields lobsters, crabs, oysters, thunny, sardines, anchovies, etc. Ortolans sell at this time, at thirty sous, equal to one shilling sterling, the dozen. At this season, they must be fattened. Through the whole of my route from Marseilles, I observe they plant a great deal of cane or reed,

which is convenient while growing, as a cover from the cold and boisterous winds, and when cut, it serves for espaliers to vines, peas, etc. Through Piedmont, Lombardy, the Milanese, and Genoese, the garden bean is a great article of culture; almost as much so as corn. At Albenga, is a rich plain opening from between two ridges of mountains, triangularly, to the sea, and of several miles extent. Its growth is olives, figs, mulberries, vines, corn and beans. There is some pasture. A bishop resides here, whose revenue is forty thousand livres. This place is said to be rendered unhealthy in summer, by the river which passes through the valley.

April 30th. *Oneglia.* The wind continuing contrary, I took mules at Albenga for Oneglia. Along this tract are many of the tree called carroubier, being a species of locust. It is the ceratonia siliqua of Linnæus. Its pods furnish food for horses, and also for the poor, in time of scarcity. It abounds in Naples and Spain. Oneglia and Port Maurice, which are within a mile of each other, are considerable places, and in a rich country. At St. Remo, are abundance of oranges and lemons, and some palm trees.

May 1st. *Ventimiglia. Menton. Monaco. Nice.* At Bordighera, between Ventimiglia and Menton, are extensive plantations of palms, on the hill as well as in the plain. They bring fruit, but it does not ripen. Something is made of the midrib, which is in great demand at Rome, on the Palm Sunday,

and which renders this tree profitable here. From Menton to Monaco, there is more good land, and extensive groves of oranges and lemons. Orange water sells here at forty sous, equal to sixteen pence sterling, the American quart. The distances on this coast, are, from Laspeze, at the eastern end of the territories of Genoa, to Genoa, fifty-five miles geometrical; to Savona, thirty; Albenga, thirty; Oneglia, twenty; Ventimiglia, twenty-five; Monaco, ten; Nice, ten; in the whole, one hundred and eighty miles. A superb road might be made along the margin of the sea from Laspeze, where the champaign country of Italy opens, to Nice, where the Alps go off northwardly, and the post roads of France begin; and it might even follow the margin of the sea quite to Cette. By this road, travellers would enter Italy without crossing the Alps, and all the little insulated villages of the Genoese would communicate together, and in time form one continued village along that road.

May 3d. *Luc. Brignolles. Tourves. Pourcieux. La Galiniere.* Long, small mountains, very rocky, the soil reddish, from bad to middling; in olives, grapes, mulberries, vines and corn. Brignolles is in an extensive plain, between two ridges of mountains, and along a water-course which continues to Tourves. Thence to Pourcieux we cross a mountain, low and easy. The country is rocky and poor. To la Galiniere are waving grounds, bounded by mountains of rock at a little distance. There are

some inclosures of dry wall from Luc to la Galiniere; also, sheep and hogs. There is snow on the high mountains. I see no plums in the vicinities of Brignolles; which makes me conjecture that the celebrated plum of that name, is not derived from this place.

May 8. *Orgon. Avignon. Vaucluse.* Orgon is on the Durance. From thence, its plain opens till it becomes common with that of the Rhone; so that from Orgon to Avignon is entirely a plain of rich dark loam, which is in willows, mulberries, vines, corn and pasture. A very few figs. I see no olives in this plain. Probably the cold winds have too much power here. From the Bac de Nova (where we cross the Durance) to Avignon, is about nine American miles; and from the same Bac to Vaucluse, eleven miles. In the valley of Vaucluse, and on the hills impending over it, are olive trees. The stream issuing from the fountain of Vaucluse is about twenty yards wide, four or five feet deep, and of such rapidity that it could not be stemmed by a canoe. They are now mowing hay, and gathering mulberry leaves. The high mountains just back of Vaucluse are covered with snow. Fine trout in the stream of Vaucluse, and the valley abounds peculiarly with nightingales. The vin blanc de M. de Rochequde of Avignon, resembles dry Lisbon. He sells it at six years old for twenty-two sous the bottle, the price of the bottle, etc., included.

Avignon. Remoulins. Some good plains, but gen-

erally hills, stony and poor. In olives, mulberries, vines and corn. Where it is waste, the growth is chene-vert, box, furze, thyme, and rosemary.

May 10. *Nismes. Lunel.* Hills on the right, plains on the left. The soil reddish, a little stony, and of middling quality. The produce, olives, mulberries, vines, corn, St. foin. No wood and few inclosures. Lunel is famous for its vin de muscat blanc, thence called Lunel, or vin muscat de Lunel. It is made from the raisin muscat, without fermenting the grain in the hopper. When fermented it makes a red muscat, taking the tinge from the dissolution of the skin of the grape, which injures the quality. When a red muscat is required, they prefer coloring it with a little Alicant wine. But the white is best. The piece of two hundred and forty bottles, after being properly drawn off from its lees, and ready for bottling, costs from one hundred and twenty to two hundred livres, the first quality and last vintage. It cannot be bought old, the demand being sufficient to take it all the first year. They are not more than from fifty to one hundred pieces a year, made of this first quality. A *setterie* yields about one piece, and my informer supposes there are about two setteries in an arpent. Portage to Paris by land is fifteen livres the quintal. The best *recoltes* are those of M. Bouquet and M. Tremoulet. The vines are in rows four feet apart, every way.

May 11. *Montpelier.* Snow on the Cevennes,

still visible from here. With respect to the muscat grape, of which the wine is made, there are two kinds, the red and the white. The first has a red skin, but a white juice. If it be fermented in the *cuve*, the coloring matter which resides in the skin is imparted to the wine. If not fermented in the cuve, the wine is white. Of the white grape, only a white wine can be made. The species of St. foin cultivated here by the name of sparsette, is the hedysarum onobryches. They cultivate a great deal of madder (garance) rubia tinctorum here, which is said to be immensely profitable. Monsieur de Gouan tells me that the pine, of which they use the burs for fuel, is the pinus sativus, being two leaved. They use for an edging to the borders of their gardens, the santolina, which they call garderobe. I find the yellow clover here, in a garden; and the large pigeon succeeding well, confined in a house.

May 12. *Frontignan.* Some tolerably good plains in olives, vines, corn, St. foin, and lucerne. A great proportion of the hills are waste. There are some inclosures of stone, and some sheep. The first four years of madder are unproductive; the fifth and sixth yield the whole value of the land. Then it must be renewed. The sparsette is the common or true St. foin. It lasts about five years; in the best land it is cut twice, in May and September, and yields three thousand pounds of dry hay to the setterie the first cutting, and five hundred pounds

the second. The setterie is of seventy-five *dextres en tout sens*, supposed about two arpents. Lucerne is the best of all forage; it is sowed here in the broadcast, and lasts about twelve or fourteen years. It is cut four times a year, and yields six thousand pounds of dry hay at the four cuttings, to the setterie. The territory in which the vin muscat de Frontignan is made, is about a league of three thousand toises long, and one-fourth of a league broad. The soil is reddish and stony, often as much stone as soil. On the left, it is a plain; on the right, hills. There are made about one thousand pieces (of two hundred and fifty bottles each) annually, of which six hundred are of the first quality, made on the *coteaux*. Of these, Madame Soubeinan makes two hundred, Monsieur Reboulle, ninety, Monsieur Lambert, médicin de la faculté de Montpelier, sixty, Monsieur Thomas, notaire, fifty, Monsieur Argilliers, fifty, Monsieur Audibert, forty; equal to four hundred and ninety; and there are some small proprietors who make small quantities. The first quality is sold, *brut*, for one hundred and twenty livres the piece; but it is then thick, and must have a winter and the *fouet* to render it potable and brilliant. The fouet is like a chocolate mill, the handle of iron, the brush of stiff hair. In bottles, this wine costs twenty-four sous, the bottles, etc., included. It is potable the April after it is made, is best that year, and after ten years begins to have a pitchy taste, resembling it to Malaga. It is not

permitted to ferment more than half a day, because it would not be so liquorish. The best color, and its natural one, is the amber. By force of whipping, it is made white, but loses flavor. There are but two or three pieces a year of red muscat made; there being but one vineyard of the red grape, which belongs to a baker called Pascal. This sells in bottles at thirty sous, the bottle included. Rondelle, negociant en vin, Porte St. Bernard, fauxbourg St. Germains, Paris, buys three hundred pieces of the first quality every year. The coteaux yield about half a piece to the setterie, the plains a whole piece. The inferior quality is not at all esteemed. It is bought by the merchants of Cette, as is also the wine of Bezieres, and sold by them for Frontignan of the first quality. They sell thirty thousand pieces a year under that name. The town of Frontignan marks its casks with a hot iron: an individual of that place having two casks emptied, was offered forty livres for the empty cask by a merchant of Cette. The town of Frontignan contains about two thousand inhabitants; it is almost on the level of the ocean. Transportation to Paris is fifteen livres the quintal, and takes fifteen days. The price of packages is about eight livres eight sous the one hundred bottles. A setterie of good vineyard sells for from three hundred and fifty to five hundred livres, and rents for fifty livres. A laboring man hires at one hundred and fifty livres the year, and is fed and lodged; a woman at half as much. Wheat sells at

ten livres the settier, which weighs one hundred pounds, poids de table. They make some Indian corn here, which is eaten by the poor. The olives do not extend northward of this into the country, above twelve or fifteen leagues. In general, the olive country in Languedoc is about fifteen leagues broad. More of the waste lands between Frontignan and Mirval are capable of culture; but it is a marshy country, very subject to fever and ague, and generally unhealthy. Thence arises, as is said, a want of hands.

Cette. There are in this town about ten thousand inhabitants. Its principal commerce is wine; it furnishes great quantities of grape pomice for making verdigrise. They have a very growing commerce; but it is kept under by the privileges of Marseilles.

May 13. *Agde.* On the right of the Etang de Tau, are plains of some width, then hills, in olives, vines, mulberry, corn and pasture. On the left, a narrow sand-bar separating the Etang from the sea, along which it is proposed to make a road from Cette to Agde. In this case, the post would lead from Montpelier, by Cette and Agde, to Bezieres, being leveller, and an hour, or an hour and a half nearer. Agde contains six or eight thousand inhabitants.

May 14. *Bezieres.* Rich plains in corn, St. foin and pasture; hills at a little distance to the right, in olives; the soil both of hill and plain is red, going from Agde to Bezieres. But at Bezieres the country

becomes hilly, and is in olives, St. foin, pasture, some vines and mulberries.

May 15. *Bezieres. Argilies. Le Saumal.* From Argilies to Saumal are considerable plantations of vines. Those on the red hills to the right, are said to produce good wine. No wood, no inclosures. There are sheep and good cattle. The Pyrenees are covered with snow. I am told they are so in certain parts all the year. The canal of Languedoc, along which I now travel, is six toises wide at bottom, and ten toises at the surface of the water, which is one toise deep. The barks which navigate it are seventy and eighty feet long, and seventeen or eighteen feet wide. They are drawn by one horse, and worked by two hands, one of which is generally a woman. The locks are mostly kept by women, but the necessary operations are much too laborious for them. The encroachments by the men, on the offices proper for the women, is a great derangement in the order of things. Men are shoemakers, tailors, upholsterers, stay-makers, mantua-makers, cooks, housekeepers, house-cleaners, bed-makers; they *coiffe* the ladies, and bring them to bed: the women, therefore, to live, are obliged to undertake the offices which they abandon. They become porters, carters, reapers, sailors, lock-keepers, smiters on the anvil, cultivators of the earth, etc. Can we wonder, if such of them as have a little beauty, prefer easier courses to get their livelihood, as long as that beauty lasts? Ladies who employ men in the offices which

should be reserved for their sex, are they not bawds in effect? For every man whom they thus employ, some girl, whose place he has thus taken, is driven to whoredom. The passage of the eight locks at Bezieres, that is, from the opening of the first to the last gate, took one hour and thirty-three minutes. The bark in which I go, is about thirty-five feet long, drawn by one horse, and goes from two to three geographical miles an hour. The canal yields abundance of carp and eel. I see also small fish resembling our perch and chub. Some plants of white clover and some of yellow, on the banks of the canal near Capestan; santolina also, and a great deal of yellow iris. Met a raft of about three hundred and fifty beams, forty feet long, and twelve or thirteen inches in diameter, formed into fourteen rafts, tacked together. The extensive and numerous fields of St. foin in general bloom, are beautiful.

May 16th. *Le Saumal. Marseillette.* May 17th. *Marseillette. Carcassonne.* From Saumal to Carcassonne, we have always the river Aube close on our left. This river runs in the valley between the Cevennes and Pyrenees, serving as the common receptacle for both their waters. It is from fifty to one hundred and fifty yards wide, always rapid, rocky, and insusceptible of navigation. The canal passes in the side of hills made by that river, overlooks the river itself, and its plains, and has its prospect ultimately terminated, on one side, by mountains of rock overtopped by the Pyrenees, on

the other, by small mountains, sometimes of rock, sometimes of soil, overtopped by the Cevennes. Marseillette is on a ridge, which separates the river Aube from the Etang de Marseillette. The canal, in its approach to this village, passes the ridge and rides along the front, overlooking the Etang, and the plains on its border; and having passed the village, re-crosses the ridge, and resumes its general ground in front of the Aube. The land is in corn, St. foin, pasture, vines, mulberries, willows, and olives.

May 18th. *Carcassonne. Castelnaudari.* Opposite to Carcassonne, the canal receives the river Fresquel, about thirty yards wide, which is its substantial supply of water from hence to Bezieres. From Bezieres to Agde, the river Orb furnishes it, and the Eraut, from Agde to the Etang de Thau. By means of *ecluse ronde* at Agde, the waters of the Eraut can be thrown towards Bezieres, to aid those of the Orb, as far as the ecluse de Porcaraigne, nine geometrical miles. Where the Fresquel enters the canal, there is, on the opposite side, a waste, to let off the superfluous waters. The horseway is continued over this waste, by a bridge of stone of eighteen arches. I observe them fishing in the canal, with a skimming net of about fifteen feet diameter, with which they tell me they catch carp. Flax in blossom. Neither strawberries nor peas yet at Carcassonne. The Windsor bean just come to table. From the ecluse de la Lande we see

the last olive trees near a metairée, or farm house, called la Lande. On a review of what I have seen and heard of this tree, the following seem to be its northern limits. Beginning on the Atlantic, at the Pyrenees, and along them to the meridian of la Lande, or of Carcassonne; up that meridian to the Cevennes, as they begin just there to raise themselves high enough to afford it shelter. Along the Cevennes, to the parallel of forty-five degrees of latitude, and along that parallel (crossing the Rhone near the mouth of the Isere) to the Alps; thence along the Alps and Apennines, to what parallel of latitude I know not. Yet here the tracing of the line becomes the most interesting. For from the Atlantic, so far, we see this production the effect of shelter and latitude combined. But where does it venture to launch forth unprotected by shelter, and by the mere force of latitude alone? Where for instance does its northern limits cross the Adriatic? I learn that the olive tree resists cold to eight degrees of Reaumur below the freezing point, which corresponds to fourteen above zero of Fahrenheit; and that the orange resists to four degrees below freezing of Reaumur, which is twenty-three degrees above zero of Fahrenheit.

May 19th. *Castelnaudari. St. Feriol. Escamaze. Lampy.* Some sheep and cattle. No inclosures. St. Feriol, Escamaze, and Lampy are in the *montagnes noires.* The country almost entirely waste. Some of it in shrubbery. The *voute* d'Escamaze is

of one hundred and thirty-five yards. Round about Castelnaudari, the country is hilly, as it has been constantly from Bezieres; it is very rich. Where it is plain, or nearly plain, the soil is black; in general, however, it is hilly and reddish, and in corn. They cultivate a great deal of Indian corn here, which they call millet; it is planted but not yet up.

May 20th. *Castelnaudari. Naurouze. Villefranche. Baziege.* At Naurouze, is the highest ground which the canal had to pass, between the two seas. It became necessary then to find water still higher to bring it here. The river Fresquel heading by its two principal branches in the *montagnes nories*, a considerable distance off to the eastward, the springs of the most western one were brought together, and conducted to Naurouze, where its waters are divided, part furnishing the canal towards the ocean, the rest towards the Mediterranean, as far as the ecluse de Fresquel, where as has been before noted, the Lampy branch, and the Alzau, under the name of the Fresquel, enter.

May 20th. They have found that a lock of six pieds is best; however, eight pieds is well enough. Beyond this, it is bad. Monsieur Pin tells me of a lock of thirty pieds, made in Sweden, of which it is impossible to open the gates. They therefore divided it into four locks. The small gates of the locks of this canal, have six square pieds of surface. They tried the machinery of the jack for opening them. They were more easily opened, but very

subject to be deranged, however strongly made. They returned therefore to the original wooden screw, which is excessively slow and laborious. I calculate that five minutes are lost at every basin by the screw, which, on the whole number of basis, is one eighth of the time necessary to navigate the canal; and of course, if a method of lifting the gate at one stroke could be found, it would reduce the passage from eight to seven days, and the freight equally. I suggested to Monsieur Pin and others, a quadrantal gate, turning on a pivot, and lifted by a lever like a pump handle, aided by a windlass and cord, if necessary. He will try it, and inform me of the success. The price of transportation from Cette to Bourdeaux, through the canal and Garonne is —— the quintal; round by the straits of Gibraltar is ——. Two hundred and forty barks, the largest of twenty-two hundred quintals (or say, in general, of one hundred tons) suffice to perform the business of this canal, which is stationary, having neither increased nor diminished for many years. When pressed, they can pass and repass between Toulouse and Bezieres in fourteen days; but sixteen is the common period. The canal is navigated ten and a half months of the year; the other month and a half being necessary to lay it dry, cleanse it and repair the works. This is done in July and August, when there would perhaps, be a want of water.

May 21st. *Baziege. Toulouse.* The country continues hilly, but very rich. It is in mulberries,

willows, some vines, corn, maize, pasture, beans, flax. A great number of chateaux and good houses, in the neighborhood of the canal. The people partly in farm houses, partly in villages. I suspect the farm houses are occupied by the farmers, while the laborers (who are mostly by the day) reside in the villages. Neither strawberries nor peas yet at Baziege or Toulouse. Near the latter, are some fields of yellow clover.

At Toulouse the canal ends. It has four communications with the Mediterranean. 1. Through the ponds at Thau, Frontignan, Palavas, Maguelone, and Manjo, the Canal de la Radela Aiguesmortes, le Canal des Salines de Pecair, and the arm of the Rhone called Bras de Fer, which ends at Fourgues, opposite to Arles, and thence down the Rhone. 2. At Cette, by a canal of a few hundred toises, leading out of the Etang de Thau into the sea. The vessels pass the Etang, through a length of nine thousand toises, with sails. 3. At Agde, by the river Eraut, twenty-five hundred toises. It has but five or six pieds of water at its mouth. It is joined to the canal at the upper part of this communication, by a branch of a canal two hundred and seventy toises long. 4. At Narbonne, by a canal they are now opening, which leads from the great canal near the aqueduct of the river Cesse, twenty-six hundred toises, into the Aude. This new canal will have five lock-basins of about twelve pieds fall, each. Then you are to cross the Aude very obliquely, and

descend a branch of it six thousand toises, through four lock-basins to Narbonne, and from Narbonne down the same branch, twelve hundred toises into the Etang de Sigen, across that Etang four thousand toises, issuing at an inlet, called Grau de la Nouvelle, into the Gulf of Lyons. But only vessels of thirty or forty tons can enter this inlet. Of these four communications, that of Cette only, leads to a deep sea-port, because the exit is there by a canal, and not a river. Those by the Rhone, Eraut, and Aude, are blocked up by bars at the mouth of those rivers. It is remarkable that all the rivers running into the Mediterranean, are obstructed at their entrance by bars and shallows, which often change their position. This is the case with the Nile, Tyber, the Po, the Lez, le Lyoron, the Orbe, the Gly, the Tech, the Tet, etc. Indeed, the formation of these bars seems not confined to the mouths of the rivers, though it takes place at them, more certainly. Along almost the whole of the coast, from Marseilles towards the Pyrenees, banks of sand are thrown up, parallel with the coast, which have insulated portions of the sea, that is, formed them into etangs, ponds, or sounds, through which here and there, narrow and shallow inlets only, are preserved by the currents of the rivers. These sounds fill up in time, with the mud and sand deposited in them by the rivers. Thus the Etang de Vendres, navigated formerly by vessels of sixty tons, is now nearly filled up by the mud and sand of the Aude. The Vistre and Vidourle

which formerly emptied themselves into the Gulf of Lyons, are now received by the Etangs de Manjo and Aiguesmortes, that is to say, the part of the Gulf of Lyons which formerly received, and still receives those rivers, is now cut off from the sea by a bar of sand, which has been thrown up in it, and has formed it into sounds. Other proofs that the land gains there on the sea, are, that the towns of St. Gilles and Notre Dame d'Aspots, formerly sea-ports, are now far from the sea, and that Aigues-mortes, where are still to be seen the iron rings to which vessels were formerly moored, and where St. Louis embarked for Palestine, has now in its vicinities, only ponds which cannot be navigated, and communicates with the sea by an inlet, called Grau du Roy, through which only fishing barks can pass. It is pretty well established, that all the Delta of Egypt has been formed by the depositions of the Nile, and the alluvions of the sea, and it is probable that that operation is still going on. Has this peculiarity of the Mediterranean any connection with the scantiness of its tides, which even at the equinoxes, are of two or three feet only?

The communication from the western end of the canal to the ocean is by the river Garonne. This is navigated by flat boats of eight hundred quintals, when the water is well; but when it is scanty, these boats carry only two hundred quintals till they get to the mouth of the Tarn. It has been proposed to

open a canal that far, from Toulouse, along the right side of the river.

May 22d. *Toulouse.* 23d. *Agen.* 24th. *Castres. Bordeaux.* The Garonne and rivers emptying into it, make extensive and rich plains, which are in mulberries, willows, corn, maize, pasture, beans and flax. The hills are in corn, maize, beans, and a considerable proportion of vines. There seems to be as much maize as corn in this country. Of the latter, there is more rye than wheat. The maize is now up, and about three inches high. It is sowed in rows two feet, or two and a half feet apart, and is pretty thick in the row. Doubtless they mean to thin it. There is a great deal of forage they call farouche. It is a species of red trefoil, with few leaves, a very coarse stalk, and a cylindrical blossom of two inches in length, and three quarters of an inch in diameter, consisting of floscules, exactly as does that of the red clover. It seems to be a coarse food, but very plentiful. They say it is for their oxen. These are very fine, large, and cream-colored. The services of the farm, and of transportation, are performed chiefly by them. There are a few horses and asses, but no mules. Even in the city of Bordeaux, we see scarcely any beasts of draught but oxen. When we cross the Garonne at Langon, we find the plains entirely of sand and gravel, and they continue so to Bordeaux. Where they are capable of anything, they are in vines, which are in rows, four, five, or six feet apart, and

sometimes more. Near Langon is Saulerne, where the best white wines of Bordeaux are made. The waste lands are in fern, furze, shrubbery, and dwarf trees. The farmers live on their farms. At Agen, Castres, Bordeaux, strawberries and peas are now brought to table, so that the country on the canal of Languedoc seems to have later seasons than that east and west of it. What can be the cause? To the eastward, the protection of the Cevennes makes the warm season advance sooner. Does the neighborhood of the Mediterranean co-operate? And does that of the ocean mollify and advance the season to the westward? There are ortolans at Agen, but none at Bordeaux. The buildings on the canal and the Garonne are mostly of brick, the size of the bricks the same with that of the ancient Roman brick, as seen in the remains of their buildings in this country. In those of a circus at Bordeaux, considerable portions of which are standing, I measured the bricks, and found them nineteen or twenty inches long, eleven or twelve inches wide, and from one and a half to two inches thick; their texture as fine, compact, and solid as that of porcelain. The bricks now made, though of the same dimensions, are not so fine. They are burnt in a kind of furnace, and make excellent work. The elm tree shows itself at Bordeaux, peculiarly proper for being spread flat for arbors. Many are done in this way on the quay des Charterons. Strawberries, peas, and cherries at Bordeaux.

May 24th, 25th, 26th, 27th, 28th. *Bordeaux.* The cantons in which the most celebrated wines of Bordeaux are made, are Medoc down the river, Grave adjoining the city, and the parishes next above; all on the same side of the river. In the first is made red wine principally, in the two last, white. In Medoc, they plant the vines in cross rows of three and a half pieds. They keep them so low, that poles extended along the rows one way, horizontally, about fifteen or eighteen inches above the ground, serve to tie the vines to, and leave the cross row open to the plough. In Grave, they set the plants in quincunx, *i. e.* in equilateral triangles of three and a half pieds every side; and they stick a pole of six or eight feet high to every vine, separately. The vine stock is sometimes three or four feet high. They find these two methods equal in culture, duration, quantity and quality. The former however, admits the alternative of tending by hand or with the plough. The grafting of the vine, though a critical operation, is practised with success. When the graft has taken, they bend it into the earth, and let it take root above the scar. They begin to yield an indifferent wine at three years old, but not a good one till twenty-five years, nor after eighty, when they begin to yield less, and worse, and must be renewed. They give three or four workings in the year, each worth seventy, or seventy-five livres the *journal*, which is of eight hundred and forty square toises and contains about three thousand

plants. They dung a little in Medoc and Grave, because of the poverty of the soil; but very little, as more would effect the wine. The journal yields, *communibus annis*, about three pieces (of two hundred and forty or two hundred and fifty bottles each). The vineyards of first quality are all worked by their proprietors. Those of the second rent for three hundred livres the journal, those of the third at two hundred livres. They employ a kind of overseer at four or five hundred livres the year, finding him lodging and drink; but he feeds himself. He superintends and directs, though he is expected to work but little. If the proprietor has a garden, the overseer tends that. They never hire laborers by the year. The day wages for a man are thirty sous, a woman's fifteen sous, feeding themselves. The women make the bundles of sarment, weed, pull off the snails, tie the vines, and gather the grapes. During the vintage they are paid high and fed well.

Of red wines, there are four vineyards of the first quality, viz., 1. Châuteau Margau, belonging to the Marquis d'Agicourt, who makes about one hundred and fifty tons, of one thousand bottles each. He has engaged to Jernon, a merchant. 2. La Tour de Segur, en Saint Lambert, belonging to Monsieur Miresmenil, who makes one hundred and twenty-five tons. 3. Hautbrion, belonging two-thirds to M. le Comte de Femelle, who has engaged to Barton, a merchant; the other third to the C[illegible]

de Toulouse, at Toulouse. The whole is seventy-five tuns. 4. Château de la Fite, belonging to the President Pichard, at Bordeaux, who makes one hundred and seventy-five tuns. The wines of the three first are not in perfection till four years old; those of De la Fite, being somewhat lighter, are good at three years, that is, the crop of 1786 is good in the spring of 1789. These growths of the year 1783 sell now at two thousand livres the tun; those of 1784, on account of the superior quality of that vintage, sell at twenty-four hundred livres; those of 1785, at eighteen hundred livres; those of 1786, at eighteen hundred livres, though they had sold at first for only fifteen hundred livres. Red wines of the second quality, are Rozan, Dabbadie or Lionville, la Rose, Quirouen, Durfort; in all eight hundred tuns, which sell at one thousand livres, new. The third class are, Calons, Mouton, Gassie, Arboete, Pontette, de Ferme, Candale; in all two thousand tuns, at eight or nine hundred livres. After these, they are reckoned common wines, and sell from five hundred livres down to one hundred and twenty livres the tun. All red wines decline after a certain age, losing color, flavor, and body. Those of Bordeaux begin to decline at about seven years old.

Of white wines, those made in the canton of Grave are most esteemed at Bordeaux. The best crops are, 1. Pontac, which formerly belonged to M. de Pontac, but now to M. de Lamont. He makes forty [illegible] which sell at four hundred livres, new. 2.

St. Brise, belonging to M. de Pontac, thirty tuns, at three hundred and fifty livres. 3. De Carbonius, belonging to the Benedictine monks, who make fifty tuns, and never selling till three or four years old, get eight hundred livres the tun. Those made in the three parishes next above Grave, and more esteemed at Paris, are, 1. Sauterne. The best crop belonging to M. Diquem at Bordeaux, or to M. de Salus, his son-in-law; one hundred and fifty tuns, at three hundred livres, new, and six hundred livres, old. The next best crop is M. de Filotte's; one hundred tuns, sold at the same price. 2. Prignac. The best is the President du Roy's, at Bordeaux. He makes one hundred and seventy-five tuns, which sell at three hundred livres, new, and six hundred livres, old. Those of 1784, for their extraordinary quality, sell at eight hundred livres. 3. Barsac. The best belongs to the President Pichard, who makes one hundred and fifty tuns, at two hundred and eighty livres, new, and six hundred livres, old. Sauterne is the pleasantest; next Prignac, and lastly Barsac; but Barsac is the strongest; next Prignac, and lastly Sauterne; and all stronger than Grave. There are other good crops made in the same parishes of Sauterne, Prignac, and Barsac; but none as good as these. There is a virgin wine, which, though made of a red grape, is of a light rose color, because, being made without pressure, the coloring matter of the skin does not mix with the juice. There are other white wines, from the pre-

ceding prices down to seventy-five livres. In general, the white wines keep longest. They will be in perfection till fifteen or twenty years of age. The best vintage now to be bought, is of 1784; both of red and white. There has been no other good year since 1779.

The celebrated vineyards before mentioned are plains, as is generally the canton of Medoc, and that of the Grave. The soil of Hautbrion, particularly, which I examined, is a sand, in which is near as much round gravel or small stone, and very little loam; and this is the general soil of Medoc. That of Pontac, which I examined also, is a little different. It is clayey, with a fourth or fifth of fine rotten stone; and at two feet depth it becomes all a rotten stone. M. de Lamont tells me he has a kind of grape without seeds, which I did not formerly suppose to exist; but I saw at Marseilles dried raisins from Smyrna without seeds. I saw in his farm at Pontac some plants of white clover, and a good deal of yellow; also some small peach trees in the open ground. The principal English wine merchants at Bordeaux are, Jemon, Barton, Johnston, Foster, Skinner, Copinger and McCartey; the chief French wine merchants are Feger, Nerac, Bruneau, Jauge, and du Verget. Desgrands, a wine broker, tells me they never mix the wines of first quality; but they mix the inferior ones to improve them. The smallest wines make the best brandy. They yield about a fifth or sixth.

May 28th, 29th. From Bordeaux to Blaye, the country near the river is hilly, chiefly in vines, some corn, some pasture; further out, are plains, boggy and waste. The soil, in both cases, clay and grit. Some sheep on the waste. To Etauliere, we have sometimes boggy plains, sometimes waving grounds and sandy, always poor, generally waste, in fern and furze, with some corn however, interspersed. To Mirambeau and St. Genis, it is hilly, poor, and mostly waste. There are some corn and maize however, and better trees than usual. Towards Pons, it becomes a little red, mostly rotten stone. There are vines, corn, and maize, which is up. At Pons we approach the Clarenton; the country becomes better, a blackish mould mixed with a rotten chalky stone; a great many vines, corn, maize, and farouche. From Lajart to Saintes and Rochefort, the soil is reddish, its foundation a chalky rock, at about a foot depth; in vines, corn, maize, clover, lucerne, and pasture. There are more and better trees than I have seen in all my journey; a great many apple and cherry trees; fine cattle and many sheep. May 30th. From Rochefort to le Rochex, it is sometimes hilly and red, with a chalky foundation middling good; in corn, pasture, and some waste; sometimes it is reclaimed marsh, in clover and corn except the parts accessible to the tide, which are in wild grass. About Rochelle, it is a low plain. Towards Usseau, and half way to Marans, level highlands, red, mixed with an equal quantity of broken

chalk; mostly in vines, some corn and pasture; then to Marans and half way to St. Hermines, it is reclaimed marsh, dark, tolerably good, and all in pasture; there we rise to plains a little higher, red, with a chalky foundation, boundless to the eye, and altogether in corn and maize. May 31st. At St. Hermines, the country becomes very hilly, a red clay mixed with chalky stone, generally waste, in furze and broom, with some patches of corn and maize; and so it continues to Chantenay, and St. Fulgent. Through the whole of this road from Bordeaux are frequent hedge rows, and small patches of forest wood, not good, yet better than I had seen in the preceding part of my journey. Towards Montaigu, the soil mends a little; the cultivated parts in corn and pasture, the uncultivated in broom. It is in very small inclosures of ditch and quickset. On approaching the Loire to Nantes, the country is leveller; the soil from Rochelle to this place may be said to have been sometimes red, but oftener grey, and always on a chalky foundation. The last census, of about 1770, made one hundred and twenty thousand inhabitants at Nantes. They conjecture there are now one hundred and fifty thousand, which equals it to Bordeaux. June 1st, 2d. The country from Nantes to L'Orient is very hilly, and poor, the soil grey; nearly half is waste, in furze and broom, among which is some poor grass. The cultivated parts are in corn, some maize, a good many apple trees; no vines. All is in

small inclosures of quick hedge and ditch. There are patches and hedge-rows of forest wood, not quite deserving the name of timber. The people are mostly in villages; they eat rye bread, and are ragged. The villages announce a general poverty, as does every other appearance. Women smite on the anvil, and work with the hoe, and cows are yoked to labor. There are great numbers of cattle, insomuch that butter is their staple. Neither asses nor mules; yet it is said that the fine mules I have met with on my journey, are raised in Poictou. There are but few chateaux here. I observe mill-ponds, and hoes with long handles. Have they not, in common with us, derived these from England, of which Bretagne is probably a colony? L'Orient is supposed to contain twenty-five thousand inhabitants. They tell me here, that to make a reasonable profit on potash and pearl ash, as bought in America, the former should sell at thirty livres, the latter thirty-six livres the quintal. Of turpentine they make no use in their vessels. Bayonne furnishes pitch enough; but tar is in demand, and ours sells well. The tower of L'Orient is sixty-five pieds above the level of the sea, one hundred and twenty pieds high, twenty-five pieds in diameter; the stairs four feet radius, and cost thirty thousand livres, besides the materials of the old tower.

June 3d, 4th, 5th. The country and productions from L'Orient to Rennes, and from Rennes to Nantes, are precisely similar to those from Nantes to L'Orient.

About Rennes, it is somewhat leveller, perhaps less poor, and almost entirely in pasture. The soil always grey. Some small separate houses which seem to be the residence of laborers, or very small farmers; the walls frequently of mud, and the roofs generally covered with slate. Great plantations of walnut, and frequently of pine. Some apple trees and sweet briar still in bloom, and broom generally so. I have heard no nightingale since the last day of May. There are gates in this country made in such a manner, that the top rail of the gate overshoots backwards the hind post, so as to counterpoise the gate, and prevent its swagging.

Nantes. Vessels of eight feet draught only can come to Nantes. Those which are larger lie at Point Boeuf, ten leagues below Nantes, and five leagues above the mouth of the river. There is a continued navigation from Nantes to Paris, through the Loire, the Canal de Briare and the Seine. Carolina rice is preferred to that of Lombardy for the Guinea trade, because it requires less water to boil it.

June 6th, 7th, 8th. *Nantes. Ancenis, Angers. Tours.* Ascending the Loire from Nantes, the road as far as Angers, leads over the hills, which are grey, oftener below than above mediocrity, and in corn, pasture, vines, some maize, flax, and hemp. There are no waste lands. About the limits of Bretagne and Anjou, which are between Loriottiere and St. George, the lands change for the better. Here and

there, we get views of the plains on the Loire, of some extent, and good appearance, in corn and pasture. After passing Angers, the road is raised out of the reach of inundations, so as at the same time, to ward them off from the interior plains. It passes generally along the river side; but sometimes leads through the plains, which, after we pass Angers, become extensive and good, in corn, pasture, some maize, hemp, flax, peas, and beans; many willows, also poplars and walnuts. The flax is near ripe. Sweet briar in general bloom. Some broom here still, on which the cattle and sheep browse in winter and spring, when they have no other green food; and the hogs eat the blossoms and pods, in spring and summer. This blossom, though disagreeable when smelt in a small quantity, is of delicious fragrance when there is a whole field of it. There are some considerable vineyards in the river plains, just before we reach Les trois volées, (which is at the one hundred and thirty-sixth milestone) and after that, where the hills on the left come into view, they are mostly in vines. Their soil is clayey and stony, a little reddish, and of southern aspect. The hills on the other side of the river, looking to the north, are not in vines. There is very good wine made on these hills; not equal indeed to the Bordeaux of best quality, but to that of good quality, and like it. It is a great article of exportation from Anjou and Touraine, and probably is sold abroad, under the name of

Bordeaux. They are now mowing the first crop of hay. All along both hills of the Loire, is a mass of white stone, not durable, growing black with time, and so soft that the people cut their houses out of the solid, with all the partitions, chimneys, doors, etc. The hillsides resemble cony burrows, full of inhabitants. The borders of the Loire, are almost a continued village. There are many chateaux; many cattle, sheep, and horses; some asses.

Tours is at the one hundred and nineteenth milestone. Being desirous of inquiring here into a fact stated by Voltaire, in his Questions Encyclopédiques, article Coquilles, relative to the growth of shells unconnected with animal bodies, at the Chateau of Monsieur de la Sauvagiere, near Tours, I called on Monsieur Gentil, premier secretaire de l'Intendance, to whom the Intendant had written on my behalf, at the request of the Marquis de Chastellux. I stated to him the fact as advanced by Voltaire, and found he was, of all men, the best to whom I could have addressed myself. He told me he had been in correspondence with Voltaire on that very subject, and was perfectly acquainted with Monsieur de la Sauvagiere, and the Faluniere where the fact is said to have taken place. It is at the Chateau de Grillemont, six leagues from Tours, on the road to Bordeaux, belonging now to Monsieur d'Orcai. He says, that de la Sauvagiere was a man of truth, and might be relied on for whatever facts he stated as of his own observations; but that he was over-

charged with imagination, which, in matters of opinion and theory, often led him beyond his facts; that this feature in his character had appeared principally in what he wrote on the antiquities of Touraine; but that, as to the fact in question, he believed him. That he himself, indeed, had not watched the same identical shells, as Sauvagiere had done, growing from small to great; but that he had often seen such masses of those shells of all sizes, from a point to a full size, as to carry conviction to his mind that they were in the act of growing; that he had once made a collection of shells for the Emperor's cabinet, reserving duplicates of them for himself; and that these afforded proofs of the same fact; that he afterwards gave those duplicates to a Monsieur du Verget, a physician of Tours, of great science and candor, who was collecting on a larger scale, and who was perfectly in sentiment with Monsieur de la Sauvagiere, that not only the Faluniere, but many other places about Tours, would convince any unbiased observer, that shells are a fruit of the earth, spontaneously produced; and he gave me a copy of de la Sauvagiere's Recueil de Dissertations, presented by the author, wherein is one Sur la vegetation spontanée des coquilles du Chateau des Places. So far, I repeat from him. What are we to conclude? That we have not materials enough yet, to form any conclusion. The fact stated by Sauvagiere is not against any law of nature, and is therefore possible; but it is so little analogous to

her habitual processes, that, if true, it would be extraordinary; that to command our belief, therefore, there should be such a suite of observations, as that their untruth would be more extraordinary than the existence of the fact they affirm. The bark of trees, the skin of fruits and animals, the feathers of birds, receive their growth and nutriment from the internal circulation of a juice through the vessels of the individual they cover. We conclude from analogy, then, that the shells of the testaceous tribe, receive also their growth from a like internal circulation. If it be urged, that this does not exclude the possibility of a like shell being produced by the passage of a fluid through the pores of the circumjacent body, whether of earth, stone, or water; I answer, that it is not within the usual economy of nature, to use two processes for one species of production. While I withhold my assent, however, from this hypothesis, I must deny it to every other I have ever seen, by which their authors pretend to account for the origin of shells in high places. Some of these are against the laws of nature, and therefore impossible; and others are built on positions more difficult to assent to, than that of de la Sauvagiere. They all suppose the shells to have covered submarine animals, and have then to answer the question, How came they fifteen thousand feet above the level of the sea? And they answer it, by demanding what cannot be conceded. One, therefore, who had rather have no opinion

than a false one, will suppose this question one of those beyond the investigation of human sagacity; or wait till further and fuller observations enable him to decide it.

Chanteloup. I heard a nightingale to-day at Chanteloup. The gardener says, it is the male who alone sings, while the female sits; and that when the young are hatched, he also ceases. In the border at Chanteloup, is an ingenious contrivance to hide the projecting steps of a stair-case. Three steps were of necessity to project into the boudoir: they are therefore made triangular steps; and instead of being rested on the floor, as usual, they are made fast at their broad end to the stair door, swinging out and in, with that. When it shuts, it runs them under the other steps; when open, it brings them out to their proper place. In the kitchen garden, are three pumps, worked by one horse. The pumps are placed in an equilateral triangle, each side of which is of about thirty-five feet. In the centre is a post, ten or twelve feet high, and one foot in diameter. In the top of this, enters the bent end of a lever, of about twelve or fifteen feet long, with a swingle-tree at the other end. About three feet from the bent end, it receives on a pin, three horizontal bars of iron, which at their other end lay hold of one corner of a quadrantal crank (like a bell crank) moving in a vertical plane, to the other corner of which is hooked the vertical handle of the pump. The crank turns on its point as a centre, by a pin or

pivot passing through it. The horse moving the lever horizontally in a circle, every point of the lever describes a horizontal circle. That which receives the three bars, describes a circle of six feet in diameter. It gives a stroke then of six feet to the handle of each pump, at each revolution.

Blois. Orleans. June 9, 10. At Blois, the road leaves the river, and traverses the hills, which are mostly reddish, sometimes grey, good enough, in vines, corn, St. foin. From Orleans to the river Juines, at Estampes, it is a continued plain of corn and St. foin, tolerably good, sometimes grey, sometimes red. From Estampes to Estrechy, the country is mountainous and rocky, resembling that of Fontainebleau. Quere. If it may not be the same vein?

A Tour to some of the Gardens of England.

[Memorandums made on a tour to some of the gardens in England, described by Whateley in his book on gardening.] While his descriptions, in point of style, are models of perfect elegance and classical correctness, they are as remarkable for their exactness. I always walked over the gardens with his book in my hand, examined with attention the particular spots he described, found them so justly characterized by him as to be easily recognized, and saw with wonder, that his fine imagination had never been able to seduce him from the

truth. My inquiries were directed chiefly to such practical things as might enable me to estimate the expense of making and maintaining a garden in that style. My journey was in the months of March and April, 1786.

Chiswick.—Belongs to Duke of Devonshire. A garden about six acres;—the octagonal dome has an ill effect, both within and without: the garden shows still too much of art. An obelisk of very ill effect; another in the middle of a pond useless.

Hampton-Court.—Old fashioned. Clipt yews grown wild.

Twickenham.—Pope's original garden, three and a half acres. Sir Wm. Stanhope added one and a half acres. This is a long narrow slip, grass and trees in the middle, walk all round. Now Sir Wellbore Ellis's. Obelisk at bottom of Pope's garden, as monument to his mother. Inscription, "Ah! Editha, matrum optima, mulierum amantissima, Vale." The house about thirty yards from the Thames: the ground shelves gently to the water side; on the back of the house passes the street, and beyond that the garden. The grotto is under the street, and goes out level to the water. In the centre of the garden a mound with a spiral walk round it. A rookery.

Esher-Place.—The house in a bottom near the river; on the other side the ground rises pretty much. The road by which we come to the house forms a dividing line in the middle of the front;

on the right are heights, rising one beyond and above another, with clumps of trees; on the farthest a temple. A hollow filled up with a clump of trees, the tallest in the bottom, so that the top is quite flat. On the left the ground descends. Clumps of trees, the clumps on each hand balance finely—a most lovely mixture of concave and convex. The garden is of about forty-five acres, besides the park which joins. Belongs to Lady Frances Pelham.

Claremont.—Lord Clive's. Nothing remarkable.

Paynshill.—Mr. Hopkins. Three hundred and twenty-three acres, garden and park all in one. Well described by Whateley. Grotto said to have cost £7,000. Whateley says one of the bridges is of stone, but both now are of wood, the lower sixty feet high: there is too much evergreen. The dwelling-house built by Hopkins, ill-situated: he has not been there in five years. He lived there four years while building the present house. It is not finished; its architecture is incorrect. A Doric temple, beautiful.

Woburn.—Belongs to Lord Peters. Lord Loughborough is the present tenant for two lives. Four people to the farm, four to the pleasure garden, four to the kitchen garden. All are intermixed, the pleasure garden being merely a highly-ornamented walk through and round the divisions of the farm and kitchen garden.

Caversham.—Sold by Lord Cadogan to Major Marsac. Twenty-five acres of garden, four hundred

acres of park, six acres of kitchen garden. A large lawn, separated by a sunk fence from the garden, appears to be part of it. A straight, broad gravel walk passes before the front and parallel to it, terminated on the right by a Doric temple, and opening at the other end on a fine prospect. This straight walk has an ill effect. The lawn in front, which is pasture, well disposed with clumps of trees.

Wotton.—Now belongs to the Marquis of Buckingham, son of George Grenville. The lake covers fifty acres, the river five acres, the basin fifteen acres, the little river two acres—equal to seventy-two acres of water. The lake and great river are on a level; they fall into the basin five feet below, and that again into the little river five feet lower. These waters lie in form of an L: the house is in middle of open side, fronting the angle. A walk goes round the whole, three miles in circumference, and containing within it about three hundred acres: sometimes it passes close to the water, sometimes so far off as to leave large pasture grounds between it and the water. But two hands to keep the pleasure grounds in order; much neglected. The water affords two thousand brace of carp a year. There is a Palladian bridge, of which, I think, Whateley does not speak.

Stowe.—Belongs to the Marquis of Buckingham, son of George Grenville, and who takes it from Lord Temple. Fifteen men and eighteen boys employed in keeping pleasure grounds. Within the walk are considerable portions separated by inclosures and

used for pasture. The Egyptian pyramid is almost entirely taken down by the late Lord Temple, to erect a building there, in commemoration of Mr. Pitt, but he died before beginning it, and nothing is done to it yet. The grotto and two rotundas are taken away. There are four levels of water, receiving it one from the other. The basin contains seven acres, the lake below that ten acres. Kent's building is called the temple of Venus. The inclosure is entirely by ha-ha. At each end of the front line there is a recess like the bastion of a fort. In one of these is the temple of Friendship, in the other the temple of Venus. They are seen the one from the other, the line of sight passing, not through the garden, but through the country parallel to the line of the garden. This has a good effect. In the approach to Stowe, you are brought a mile through a straight avenue, pointing to the Corinthian arch and to the house, till you get to the arch, then you turn short to the right. The straight approach is very ill. The Corinthian arch has a very useless appearance, inasmuch as it has no pretension to any destination. Instead of being an object from the house, it is an obstacle to a very pleasing distant prospect. The Grecian valley being clear of trees, while the hill on each side is covered with them, is much deepened to appearance.

Leasowes, in Shropshire.—Now the property of Mr. Horne by purchase. One hundred and fifty acres within the walk. The waters small. This

is not even an ornamented farm—it is only a grazing farm with a path round it, here and there a seat of board, rarely anything better. Architecture has contributed nothing. The obelisk is of brick. Shenstone had but three hundred pounds a year, and ruined himself by what he did to this farm. It is said that he died of the heart-aches which his debts occasioned him. The part next the road is of red earth, that on the further part grey. The first and second cascades are beautiful. The landscape at number eighteen, and prospect at thirty-two, are fine. The walk through the wood is umbrageous and pleasing. The whole arch of prospect may be of ninety degrees. Many of the inscriptions are lost.

Hagley, now Lord Wescot's.—One thousand acres: no distinction between park and garden—both blended, but more of the character of garden. Eight or nine laborers keep it in order. Between two and three hundred deer in it, some of them red deer. They breed sometimes with the fallow. This garden occupying a descending hollow between the Clent and Witchbury hills, with the spurs from those hills, there is no level in it for a spacious water. There are, therefore, only some small ponds. From one of these there is a fine cascade; but it can only be occasionally, by opening the sluice. This is in a small, dark, deep hollow, with recesses of stone in the banks on every side. In one of these is a Venus predique, turned half round as if inviting you with her into the recess. There is another

cascade seen from the portico on the bridge. The castle is triangular, with a round tower at each angle, one only entire; it seems to be between forty and fifty feet high. The ponds yield a great deal of trout. The walks are scarcely gravelled.

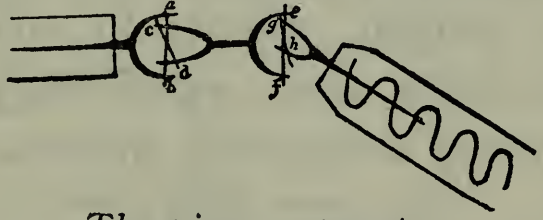
Blenheim.—Twenty-five hundred acres, of which two hundred is garden, one hundred and fifty water, twelve kitchen garden, and the rest park. Two hundred people employed to keep it in order, and to make alterations and additions. About fifty of these employed in pleasure grounds. The turf is mowed once in ten days. In summer, about two thousand fallow deer in the park, and two or three thousand sheep. The palace of Henry II. was remaining till taken down by Sarah, widow of the first Duke of Marlborough. It was on a round spot levelled by art, near what is now water, and but a little above it. The island was a part of the high road leading to the palace. Rosamond's bower was near where is now a little grove, about two hundred yards from the palace. The well is near where the bower was. The water here is very beautiful, and very grand. The cascade from the lake, a fine one; except this the garden has no great beauties. It is not laid out in fine lawns and woods, but the trees are scattered thinly over the ground, and every here and there small thickets of shrubs, in oval raised beds, cultivated, and flowers among the shrubs. The gravelled walks are broad—art appears too much. There are but a few seats in it, and noth-

ing of architecture more dignified. There is no one striking position in it. There has been a great addition to the length of the river since Whateley wrote.

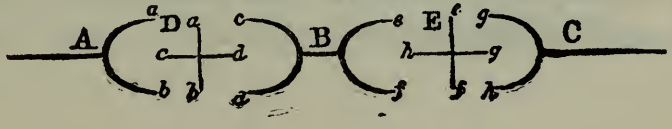
Enfield Chase.—One of the four lodges. Garden about sixty acres. Originally by Lord Chatham, now in the tenure of Dr. Beaver, who married the daughter of Mr. Sharpe. The lease lately renewed—not in good repair. The water very fine; would admit of great improvement by extending walks, etc., to the principal water at the bottom of the lawn.

Moor Park.—The lawn about thirty acres. A piece of ground up the hill of six acres. A small lake. Clumps of spruce firs. Surrounded by walk—separately inclosed—destroys unity. The property of Mr. Rous, who bought of Sir Thomas Dundas. The building superb; the principal front a Corinthian portico of four columns; in front of the wings a colonnade, Ionic, subordinate. Back front a terrace, four Corinthian pilasters. Pulling down wings of building; removing deer; wants water.

Kew.—Archimedes' screw for raising water. A horizontal shaft made to turn the oblique one of the screw by a patent machinery of this form:



The pieces separate.



A is driven by its shank into the horizontal axis of the wheel which turns the machine.

B is an intermediate iron to connect the motion of A and C.

C is driven by its shank into the axis of the screw.

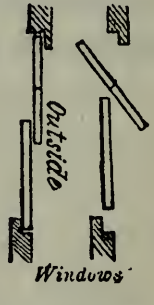
D is a cross axis, the ends, *a* and *b*, going into the corresponding holes *a* and *b* of the iron A, and the ends, *c* and *d*, going into the corresponding holes *c* and *d* of the iron B.

E is another cross axis, the ends, *e* and *f*, going into the corresponding holes *e* and *f* of the iron B, and the ends, *g* and *h*, going into the corresponding holes *g* and *h* of the iron C.

Memorandums on a Tour from Paris to Amsterdam, Strasburg, and back to Paris.

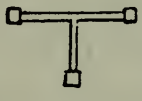
March 3d, 1788.

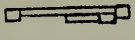
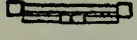
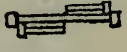
Amsterdam.—Joists of houses placed, not with their sides horizontally and perpendicularly, but diamond wise, thus: ◇ first, for greater strength; second, to arch between with brick, thus:



Windows opening so that they admit air and not rain. The upper sash opens on a horizontal axis, or pins in the centre of the sides, the lower sash slides up.

Manner of fixing a flag staff on the mast of a vessel: *a* is the bolt on which it turns; *b* a bolt which is taken in and out to fasten it or to let it down. When taken out, the lower end of the staff is shoved out of its case, and the upper end being heaviest brings itself down: a rope must have been previously fastened to the butt end, to pull it down again when you want to raise the flag end. Dining tables letting down with single or double leaves, so as to take the room of their thickness only with a single leaf when open,

thus:  or thus: double-leaves open:

shut, thus:  or thus:  shut: 

Peat costs about one doit each, or twelve and a half stivers the hundred. One hundred make seven cubic feet, and to keep a tolerably comfortable fire for a study or chamber, takes about six every hour and a half.

A machine for drawing light *empty* boats over a dam at Amsterdam. It is an axis in peritrochio fixed on the dam. From the dam each way is a sloping stage, the boat is presented to this, the rope of the axis made fast to it, and it is drawn up. The water on one side of the dam is about four feet higher than on the other.

The camels used for lightening ships over the Pampus will raise the ships eight feet. There are

beams passing through the ship's sides, projecting to the off side of the camel and resting on it; of course that alone would keep the camel close to the ship. Besides this, there are a great number of windlasses on the camels, the ropes of which are made fast to the gunwale of the ship. The camel is shaped to the ship on the near side, and straight on the off one. When placed along side, water is let into it so as nearly to sink it; in this state it receives the beams, etc., of the ship, and then the water is pumped out.

Wind saw-mills. See the plans detailed in the moolen book which I bought. A circular foundation of brick is raised about three or four feet high, and covered with a curb or sill of wood, and has little rollers under its sill which make it turn easily on the curb. A hanging bridge projects at each end about fifteen or twenty feet beyond the circular area, thus: horizontally, and thus: in the profile to increase the play of the timbers on the frame. The wings are at one side, as at *a;* there is a shelter over the hanging bridges, but of plank with scarce any frame, very light.

A bridge across a canal formed by two scows, which open each to the opposite shore and let boats pass.

A lanthern over the street door, which gives light equally into the antechamber and the street. It

is a hexagon, and occupies the place of the middle pane of glass in the circular top of the street door.

A bridge on a canal, turning on a swivel, by which means it is arranged along the side of the canal so as not to be in the way of boats when not in use. When used, it is turned across the canal. It is, of course, a little more than double the width of the canal.

Hedges of beech, which, not losing the old leaf till the new bud pushes it off, has the effect of an evergreen as to cover.

Mr. Ameshoff, merchant at Amsterdam. The distribution of his aviary is worthy of notice. Each kind of the large birds has its coop eight feet wide and four feet deep; the middle of the front is occupied by a broad glass window, on one side of which is a door for the keeper to enter at, and on the other a little trap-door for the birds to pass in and out. The floor strewed with clean hay. Before each coop is a court of eight by sixteen feet, with wire in front and netting above, if the fowls be able to fly. For such as require it, there are bushes of evergreen growing in their court for them to lay their eggs under. The coops are frequently divided into two stories: the upper for those birds which perch, such as pigeons, etc., the lower for those which feed on the ground, as pheasants, partridges, etc. The court is in common for both stories, because the birds do no injury to each other. For the water-fowl there is a pond of water passing through the courts, with a movable separation. While they

are breeding they must be separate, afterwards they may come together. The small birds are some of them in a common aviary, and some in cages.

The Dutch wheelbarrow is in this form: which is very convenient for loading and unloading.

Mr. Hermen Hend Damen, merchant-broker of Amsterdam, tells me that the emigrants to America come from the Palatinate down the Rhine, and take shipping from Amsterdam. Their passage is ten guineas if paid here, and eleven if paid in America. He says they might be had in any number to go to America, and settle lands as tenants on half stocks or metairies. Perhaps they would serve their employer one year as an indemnification for the passage, and then be bound to remain on his lands seven years. They would come to Amsterdam at their own expense. He thinks they would employ more than fifty acres each; but *quære*, especially if they have fifty acres for their wife also?

Hodson.—The best house. Stadhonderian, his son, in the government. Friendly, but old and very infirm.

Hope.—The first house in Amsterdam. His first object England; but it is supposed he would like to have the American business also, yet he would probably make our affairs subordinate to those of England.

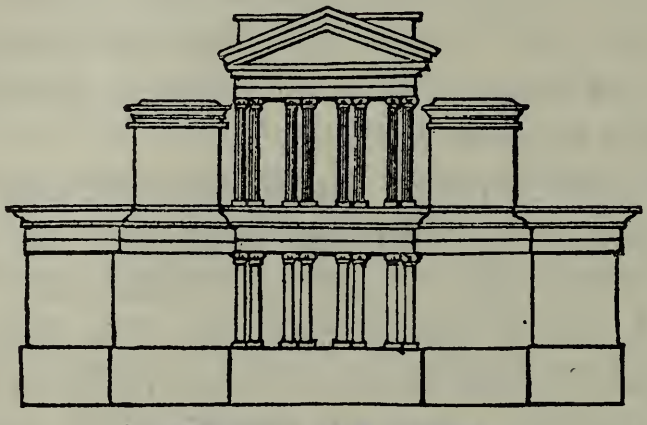
Vollenhoven.—An excellent old house; connected with no party.

Sapportus.—A brother, very honest and ingenuous, well-disposed; acts for Hope, but will say with truth what he can do for us. The best person to consult with as to the best house to undertake a piece of business. He has brothers in London in business. Jacob Van Staphorst tells me there are about fourteen millions of florins, new money, placed in loans in Holland every year, being the savings of individuals out of their annual revenue, etc. Besides this, there are every year reimbursements of old loans from some quarter or other to be replaced at interest in some new loan.

1788. March 16th. Baron Steuben has been generally suspected of having suggested the first idea of the self-styled Order of Cincinnati. But Mr. Adams tells me, that in the year 1776 he had called at a tavern in the State of New York, to dine, just at the moment when the British army was landing at Frog's Neck. Generals Washington, Lee, Knox, and Parsons, came to the same tavern. He got into conversation with Knox. They talked of ancient history—of Fabius, who used to raise the Romans from the dust; of the present contest, etc.; and General Knox, in the course of the conversation, said he should wish for some ribbon to wear in his hat, or in his buttonhole, to be transmitted to his descendants as a badge and a proof that he had fought in defence of their liberties. He spoke of it in such precise terms, as showed he had revolved it in his mind before. Mr. Adams says he and Knox

were standing together in the door of the tavern, and does not recollect whether General Washington and the others were near enough to hear the conversation, or were even in the room at that moment. Baron Steuben did not arrive in America till above a year after that. Mr. Adams is now fifty-three years old, *i. e.* nine years more than I am.

It is said this house will cost four tons of silver,



HOPE'S HOUSE, NEAR HARLAEM.

or forty thousand pounds sterling. The separation between the middle building and wings in the upper story has a capricious appearance, yet a pleasing one. The right wing of the house (which is the left in the plan) extends back to a great length, so as to make the ground plan in the form of an L. The parapet has a panel of wall, and a panel of balusters alternately, which lighten it. There is no portico, the columns being backed against the wall of the front.

March 30th, 31st. *Amsterdam. Utrecht. Nimeguen.* The lower parts of the low countries seem

partly to have been gained from the sea, and partly to be made up of the plains of the Yssel, the Rhine, the Maese and the Schelde united. To Utrecht nothing but plains are seen, a rich black mould, wet, lower than the level of the waters which intersect it; almost entirely in grass; few or no farm-houses, as the business of grazing requires few laborers. The canal is lined with country houses, which bespeak the wealth and cleanliness of the country; but generally in an uncouth state, and exhibiting no regular architecture. After passing Utrecht, the hills northeast of the Rhine come into view, and gather in towards the river, till at Wyck Dursted they are within three or four miles, and at Amelengen they join the river. The plains, after passing Utrecht, become more sandy; the hills are very poor and sandy, generally waste in broom, sometimes a little corn. The plains are in corn, grass, and willow. The plantations of the latter are immense, and give it the air of an uncultivated country. There are now few chateaux; farm-houses abound, built generally of brick, and covered with tile or thatch. There are some apple trees, but no forest; a few inclosures of willow wattling. In the gardens are hedges of beech, one foot apart, which, not losing its old leaves till they are pushed off in the spring by the young ones, gives the shelter of evergreens. The Rhine is here about three hundred yards wide, and the road to Nimeguen passing it a little below Wattelingen, leaves Hetern in sight

on the left. On this side, the plains of the Rhine, the Ling, and the Waal unite. The Rhine and Waal are crossed on vibrating boats, the rope supported by a line of seven little barks. The platform by which you go on to the ferry-boat is supported by boats. The view from the hill at Cress is sublime. It commands the Waal, and extends far up the Rhine. That also up and down the Waal from the Bellevue of Nimeguen, is very fine. The chateau here is pretended to have lodged Julius Cæsar. This is giving it an antiquity of at least eighteen centuries, which must be apocryphal. Some few sheep to-day, which were feeding in turnip patches.

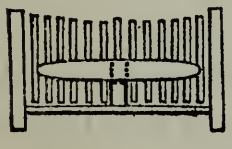
April 1st. *Cranenburg. Cleves. Santen. Reynberg. Hoogstraat.* The transition from ease and opulence to extreme poverty is remarkable on crossing the line between the Dutch and Prussian territories. The soil and climate are the same; the governments alone differ. With the poverty, the fear also of slaves is visible in the faces of the Prussian subjects. There is an improvement, however, in the physiognomy, especially could it be a little brightened up. The road leads generally over the hills, but sometimes through skirts of the plains of the Rhine. These are always extensive and good. They want manure, being visibly worn down. The hills are almost always sandy, barren, uncultivated, and insusceptible of culture, covered with broom and moss; here and there a little indifferent forest,

which is sometimes of beech. The plains are principally in corn; some grass and willow. There are no chateaux, nor houses that bespeak the existence even of a middle class. Universal and equal poverty overspreads the whole. In the villages, too, which seem to be falling down, the over-proportion of women is evident. The cultivators seem to live on their farms. The farm-houses are of mud, the better sort of brick; all covered over with thatch. Cleves is little more than a village. If there are shops or magazines of merchandise in it, they show little. Here and there at a window some small articles are hung up within the glass. The gooseberry beginning to leaf.

April 2d. Passed the Rhine at *Essenberg*. It is there about a quarter of a mile wide, or five hundred yards. It is crossed in a scow with sails. The wind being on the quarter, we were eight or ten minutes only in the passage. Duysberg is but a village in fact, walled in; the buildings mostly of brick. No new ones, which indicate a thriving state. I had understood that near that were remains of the encampment of Varus, in which he and his legions fell by the arms of Arminius (in the time of Tiberius I think it was), but there was not a person to be found in Duysberg who could understand either English, French, Italian, or Latin. So I could make no inquiry.

From *Duysberg* to *Dusseldorf* the road leads sometimes over the hills, sometimes through the plains

of the Rhine, the quality of which is as before described. On the hills, however, are considerable groves of oak, of spontaneous growth, which seem to be of more than a century; but the soil being barren, the trees, though high, are crooked and knotty. The undergrowth is broom and moss. In the plains is corn entirely. As they are become rather sandy for grass, there are no inclosures on the Rhine at all. The houses are poor and ruinous, mostly of brick, and scantling mixed. A good deal of grape cultivated.

Dusseldorf.—The gallery of paintings is sublime, particularly the room of Vanderwerff. The plains from Dusseldorf to Cologne are much more extensive, and go off in barren downs at some distance from the river. These downs extend far, according to appearance. They are manuring the plains with lime. A gate at the Elector's chateau on this road in this form.  We cross at Cologne on a pendulum boat. I observe the hog of this country (Westphalia), of which the celebrated ham is made, is tall, gaunt, and with heavy lop ears. Fatted at a year old would weigh one hundred or one hundred and twenty pounds. At two years old, two hundred pounds. Their principal food is acorns. The pork, fresh, sells at two and a half pence sterling the pound. The hams, ready made, at eight and a half pence sterling the pound. One hundred and six pounds of this country are equal to

one hundred pounds of Holland. About four pounds of fine Holland salt are put on one hundred pounds of pork. It is smoked in a room which has no chimney. Well-informed people here tell me there is no other part of the world where the bacon is smoked. They do not know that we do it. Cologne is the principal market of exportation. They find that the small hog makes the sweetest meat.

Cologne is a sovereign city, having no territory out of its walls. It contains about sixty thousand inhabitants; appears to have much commerce, and to abound with poor. Its commerce is principally in the hands of Protestants, of whom there are about sixty houses in the city. They are extremely restricted in their operations, and otherwise oppressed in every form by the government, which is Catholic, and excessively intolerant. Their Senate, some time ago, by a majority of twenty-two to eighteen, allowed them to have a church; but it is believed this privilege will be revoked. There are about two hundred and fifty Catholic churches in the city. The Rhine is here about four hundred yards wide. This city is in 51° latitude, wanting about 6′. Here the vines begin, and it is the most northern spot on the earth on which wine is made. Their first grapes came from Orleans, since that from Alsace, Champagne, etc. It is thirty-two years only since the first vines were sent from Cassel, near Mayence, to the Cape of Good Hope, of which the Cape wine is now made. Afterwards

new supplies were sent from the same quarter. That I suppose is the most southern spot on the globe where wine is made, and it is singular that the same vine should have furnished two wines as much opposed to each other in quality as in situation. I was addressed here by Mr. Damen, of Amsterdam, to Mr. Jean Jaques Peuchen, of this place, merchant.

April 4th. *Cologne. Bonne. Andernach. Coblentz.* I saw many walnut trees to-day in the open fields. It would seem as if this tree and wine required the same climate. The soil begins now to be reddish, both on the hills and in the plains. Those from Cologne to Bonne extend about three miles from the river on each side; but a little above Bonne they become contracted, and continue from thence to be from one mile to nothing, comprehending both sides of the river. They are in corn, some clover and rape, and many vines. These are planted in rows three feet apart both ways. The vine is left about six or eight feet high, and stuck with poles ten or twelve feet high. To these poles they are tied in two places, at the height of about two and four feet. They are now performing this operation. The hills are generally excessively steep, a great proportion of them barren; the rest in vines principally, sometimes small patches of corn. In the plains, though rich, I observed they dung their vines plentifully; and it is observed here, as elsewhere, that the plains yield much wine, but bad.

The good is furnished from the hills. The walnut, willow, and apple tree beginning to leaf.

Andernach is the port on the Rhine to which the famous mill-stones of Cologne are brought; the quarry, as some say, being at Mendich, three or four leagues from thence. I suppose they have been called Cologne mill-stones, because the merchants of that place having the most extensive correspondence, have usually sent them to all parts of the world. I observed great collections of them at Cologne. This is one account.

April 5th. *Coblentz. Nassau.* Another account is, that these stones are cut at Triers and brought down the Moselle. I could not learn the price of them at the quarry; but I was shown a grind-stone of the same stone, five feet diameter, which cost at Triers six florins. It was of but half the thickness of a mill-stone. I supposed, therefore, that two mill-stones would cost about as much as three of these grind-stones, *i. e.*, about a guinea and a half. This country abounds with slate.

The best Moselle wines are made about fifteen leagues from hence, in an excessively mountainous country. The first quality (without any comparison) is that made on the mountain of Brownberg, adjoining to the village of Dusmond; and the best crop is that of the Baron Breidbach Burrhesheim, grand Chambellan et grand Baillif de Coblentz. His Receveur, of the name of Mayer, lives at Dusmond. The last fine year was 1783, which sells now at

fifty louis the foudre, which contains six aumes of one hundred and seventy bottles each, equal to about one thousand one hundred and ten bottles. This is about twenty-two sous Tournois the bottle. In general, the Baron Burrhesheim's crops will sell as soon as made, say at the vintage, for one hundred and thirty, one hundred and forty, and one hundred and fifty ecus the foudre (the ecu is one and a half florins of Holland), say two hundred. 2. Vialen is the second quality, and sells new at one hundred and twenty ecus the foudre. 3. Crach-Bispost is the third, and sells for about one hundred and five ecus. I compared Crach of 1783 with Baron Burrhesheim's of the same year. The latter is quite clear of acid, stronger, and very sensibly the best. 4. Selting, which sells at one hundred ecus. 5. Kous-Bern-castle, the fifth quality, sells at eighty or ninety. After this there is a gradation of qualities down to thirty ecus. These wines must be five or six years old before they are quite ripe for drinking. One thousand plants yield a foudre of wine a year in the most plentiful vineyards. In other vineyards, it will take two thousand or two thousand and five hundred plants to yield a foudre. The culture of one thousand plants costs about one louis a year. A day's labor of a man is paid in winter twenty kreitzers (*i. e.*, one-third of a florin), in summer twenty-six; a woman's is half that. The red wines of this country are very indifferent, and will not keep. The Moselle is here from one hundred to two

hundred yards wide; the Rhine three hundred to four hundred. A jessamine in the Count de Moustier's garden in leaf.

In the Elector of Treves' palace at Coblentz, are large rooms very well warmed by warm air conveyed from an oven below, through tubes which open into the rooms. An oil and vinegar cruet in this form: At Coblentz we pass the river on a pendulum boat, and the road to Nassau is over tremendous hills, on which is here and there a little corn, more vines, but mostly barren. In some of these barrens are forests of beech and oak, tolerably large, but crooked and knotty; the undergrowth beech brush, broom, and moss. The soil of the plains, and of the hills where they are cultivable, is reddish. Nassau is a village the whole rents of which should not amount to more than a hundred or two guineas. Yet it gives the title of Prince to the house of Orange to which it belongs.

April 6th. *Nassau. Schwelbach. Wisbaden. Hocheim. Frankfort.* The road from Nassau to Schwelbach is over hills, or rather mountains, both high and steep; always poor, and above half of them barren in beech and oak. At Schwelbach there is some chestnut. The other parts are either in winter grain, or preparing for that of the spring. Between Schwelbach and Wisbaden we come in sight of the plains of the Rhine, which are very

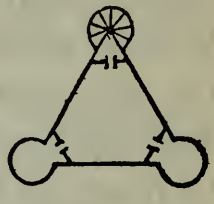
extensive. From hence the lands, both high and low, are very fine, in corn, vines, and fruit trees. The country has the appearance of wealth, especially in the approach to Frankfort.

April 7th. *Frankfort.* Among the poultry, I have seen no turkeys in Germany till I arrive at this place. The stork, or crane, is very commonly tame here. It is a miserable, dirty, ill-looking bird. The Lutheran is the reigning religion here, and is equally intolerant to the Catholic and Calvinist, excluding them from the free corps.

April 8th. *Frankfort. Hanau.* The road goes through the plains of the Maine, which are mulatto, and very fine. They are well cultivated till you pass the line between the republic and the landgraviate of Hesse, when you immediately see the effect of the difference of government, notwithstanding the tendency which the neighborhood of such a commercial town as Frankfort has to counteract the effects of tyranny in its vicinities, and to animate them in spite of oppression. In Frankfort all is life, bustle, and motion; in Hanau the silence and quiet of the mansions of the dead. Nobody is seen moving in the streets; every door is shut; no sound of the saw, the hammer, or other utensil of industry. The drum and fife are all that is heard. The streets are cleaner than a German floor, because nobody passes them. At Williamsbath, near Hanau, is a country seat of the Landgrave. There is a ruin which is clever. It presents the remains of an old castle. The ground plan is

in this form: The upper story in this:

A circular room of thirty-one and a half feet diameter within. The four little square towers at the corners finish at the floor of the upper story, so as to be only platforms to walk out on. Over the circular room is a platform also, which is covered by the broken parapet which once crowned the top, but is now fallen off some parts, whilst the other parts remain. I like better, however, the form of the ruin at Hagley, in England, which was thus a sentry box here, covered over with bark, so as to look exactly like the trunk of an old tree. This is a good idea; and may be of much avail in a garden. There is a hermitage in which is a good figure of a hermit in plaster, colored to the life, with a table and book before him, in the attitude of reading and contemplation. In a little cell is his bed; in another his books, some tools, etc.; in another his little provision of firewood, etc. There is a monument erected to the son of the present landgrave, in the form of a pyramid, the base of which is eighteen and a half feet. The side declines from the perpendicular about twenty-one and a half degrees. An arch is carried through it both ways so as to present a door in each side. In the middle of this, at the crossing of the two arches, is a marble monument with this inscription: "ante



tempus." He died at twelve years of age. Between Hanau and Frankfort, in sight of the road, is the village of Bergen, where was fought the battle of Bergen in the war before last. Things worth noting here are: 1. A folding ladder. 2. Manner of packing china cups and saucers, the former in a circle within the latter. 3. The marks of different manufactures of china, to wit: Dresden with two swords. Hecks with a wheel with W, Frankendaal with (for Charles Theodore), and a over it. Berlin with 4. The top rail of a wagon supported by the washers on the ends of the axle-trees.

April 10th. *Frankfort. Hocheim. Mayence.* The little tyrants round about having disarmed their people, and made it very criminal to kill game, one knows when they quit the territory of Frankfort by the quantity of game which is seen. In the Republic, everybody being allowed to be armed, and to hunt on their own lands, there is very little game left in its territory. The hog hereabouts resembles extremely the little hog of Virginia. Round like that, a small head, and short upright ears. This makes the ham of Mayence so much esteemed at Paris.

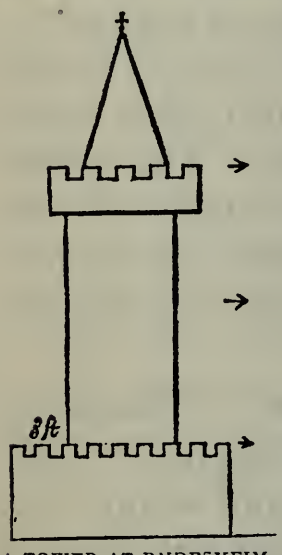
We cross the Rhine at Mayence on a bridge one thousand eight hundred and forty feet long, supported by forty-seven boats. It is not in a direct line, but curved up against the stream; which may strengthen it if the difference between the upper and

lower curve be sensible, if the planks of the floor be thick, well jointed together, and forming sectors of circles, so as to act on the whole as the stones of an arch. But it has by no means this appearance. Near one end, one of the boats has an axis in peritrochio, and a chain, by which it may be let drop down stream some distance, with the portion of the floor belonging to it, so as to let a vessel through. Then it is wound up again into place, and to consolidate it the more with the adjoining parts, the loose section is a little higher, and has at each end a folding stage, which folds back on it when it moves down, and when brought up again into place, these stages are folded over on the bridge. This whole operation takes but four or five minutes. In the winter the bridge is taken away entirely, on account of the ice. And then everything passes on the ice, through the whole winter.

April 11th. *Mayence. Rudesheim. Johansberg. Markebronn.* The women do everything here. They dig the earth, plough, saw, cut and split wood, row, tow the batteaux, etc. In a small but dull kind of batteau, with two hands rowing with a kind of large paddle, and a square sail, but scarcely a breath of wind, we went down the river at the rate of five miles an hour, making it three and a half hours to Rudesheim. The floats of wood which go with the current only, go one mile and a half an hour. They go night and day. There are five boat-mills abreast here. Their floats seem to be about eight feet

broad. The Rhine yields salmon, carp, pike, and perch, and the little rivers running into it yield speckled trout. The plains from Maintz to Rudesheim are good and in corn; the hills mostly in vines. The banks of the river are so low that, standing up in the batteau, I could generally see what was in the plains. Yet they are seldom overflowed.

Though they begin to make wine, as has been said, at Cologne, and continue it up the river indefinitely; yet it is only from Rudesheim to Hocheim that wines of the very first quality are made. The river happens there to run due east and west, so as to give its hills on that side a southern aspect. And even in this canton, it is only Hocheim, Johansberg, and Rudesheim, that are considered as of the very first quality. Johansberg is a little mountain (berg signifies mountain), whereon is a religious house, about fifteen miles below Mayence, and near the village of Vingel. It has a southern aspect, the soil a barren mulatto clay, mixed with a good deal of stone, and some slate. This wine used to be but on a par with Hocheim and Rudesheim; but the place having come to the Bishop of Fulda, he improved its culture so as to render it stronger; and since the year 1775, it sells at double the price of the other two. It has none of the acid of the Hocheim and other Rhenish wines.



A TOWER AT RUDESHEIM.

There are about sixty tuns made in a good year, which sell, as soon as of a drinkable age, at one thousand franks each. The tun here contains seven and a half aumes of one hundred and seventy bottles each. Rudesheim is a village of about eighteen or twenty miles below Mayence. Its fine wines are made on the hills about a mile below the village, which look to the south, and on the middle and lower parts of them. They are terraced. The soil is grey, about one-half of slate and rotten stone, the other half of barren clay, excessively steep. Just behind the village also is a little spot, called Hinder House, belonging to the Counts of Sicken and Oschstein, whereon each makes about a tun of wine of the very first quality. This spot extends from the bottom to the top of the hill. The vignerons of Rudesheim dung their wines about once in five or six years, putting a one-horse tumbrel load of dung on every twelve feet square. One thousand plants yield about four aumes in a good year. The best crops are,

The Chanoines of Mayence, who make	15	pieces of	7½ aumes.
Le Comte de Sicken	6	"	"
Le Comte d'Oschstein.....	9	"	"
L'Electeur de Mayence.....	6	"	"
Le Comte de Meternisch	6	"	"
Monsieur de Boze	5	"	"
M. Ackerman, baliff et aubergiste des Trois Couronnes	8	"	"
M. Ackerman le fils, aubergiste à la couronne ..	5	"	"
M. Lynn, aubergiste de l'ange	5	"	"
Baron de Wetzel	7	"	"

Convent de Mariahousen, des religieuses Benedictines	7 pieces of	7½ aumes.
M. Johan Yung	8 "	"
M. de Rieden	5 "	"
	92	

These wines begin to be drinkable at about five years old. The proprietors sell them old or young, according to the prices offered, and according to their own want of money. There is always a little difference between different casks, and therefore when you choose and buy a single cask, you pay three, four, five or six hundred florins for it. They are not at all acid, and to my taste much preferable to Hocheim, though but of the same price. Hocheim is a village about three miles above Mayence, on the Maine, where it empties into the Rhine. The spot whereon the good wine is made is the hillside from the church down to the plain, a gentle slope of about a quarter of a mile wide, and extending half a mile towards Mayence. It is of southwestern aspect, very poor, sometimes grey, sometimes mulatto, with a moderate mixture of small broken stone. The vines are planted three feet apart, and stuck with sticks about six feet high. The vine, too, is cut at that height. They are dunged once in three or four years. One thousand plants yield from one to two aumes a year: they begin to yield a little at three years old, and continue to one hundred years, unless sooner killed by a cold winter. Dick, keeper of the Rothen-house tavern at Frank-

fort, a great wine merchant, who has between three and four hundred tuns of wine in his cellars, tells me that Hocheim of the year 1783, sold, as soon as it was made, at ninety florins the aume, Rudesheim of the same year, as soon as made, at one hundred and fifteen florins, and Markebronn seventy florins. But a peasant of Hocheim tells me that the best crops of Hocheim in the good years, when sold new, sell but for about thirty-two or thirty-three florins the aume; but that it is only the poorer proprietors who sell new. The fine crops are,

Count Ingleheim about	10	tuns.	All of these keep till about fifteen years old, before they sell, unless they are offered a very good price sooner.
Baron d'Alberg	8	"	
Count Schimbon	14	"	
The Chanoines of Mayence	18	"	
Counsellor Schik de Vetsler	15	"	
Convent of Jacobsberg	8	"	
The Chanoine of Fechbach	10	"	
The Carmelites of Frankfort	8	"	Who only sell by the bottle in their own tavern in Frankfort.
The Bailiff of Hocheim	11	"	Who sells at three or four years old.
Zimmerman, a bourgeois	4	"	These being poor, sell new.
Feldman, a carpenter	2	"	

Markebronn (bronn signifies a spring, and is probably of affinity with the Scotch word, burn) is a little canton in the same range of hills, adjoining to the village of Hagenheim, about three miles above Johansberg, subject to the elector of Mayence. It is a sloping hillside of southern aspect, mulatto, poor, and mixed with some stone. This yields wine of the second quality.

April 12th. *Mayence. Oppenheim. Dorms. Manheim.* On the road between Mayence and Oppenheim are three cantons, which are also esteemed as yielding wines of the second quality. These are Laudenheim, Bodenheim, and Nierstein. Laudenheim is a village about four or five miles from Mayence. Its wines are made on a steep hillside, the soil of which is grey, poor and mixed with some stone. The river there happens to make a short turn to the southwest, so as to present its hills to the southeast. Bodenheim is a village nine miles, and Nierstein another about ten or eleven miles from Mayence. Here, too, the river is northeast and southwest, so as to give the hills between these villages a southeast aspect; and at Thierstein, a valley making off, brings the face of the hill round to the south. The hills between these villages are almost perpendicular, of a vermilion red, very poor, and having as much rotten stone as earth. It is to be observed that these are the only cantons on the south side of the river which yield good wine, the hills on this side being generally exposed to the cold winds, and turned from the sun. The annexed bill of prices current, will give an idea of the estimation of these wines respectively.

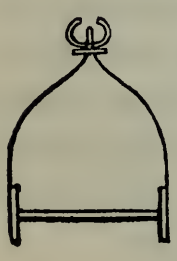
With respect to the grapes in this country, there are three kinds in use for making white wine, (for I take no notice of the red wines, as being absolutely worthless). 1. The Klemperien, of which the inferior qualities of Rhenish wines are made, and is

cultivated because of its hardness. The wines of this grape descend as low as one hundred florins the tun of eight aumes. 2. The Rhysslin grape, which grows only from Hocheim down to Rudesheim. This is small and delicate, and therefore succeeds only in this chosen spot. Even at Rudesheim it yields a fine wine only in the little spot called Hinder House, before mentioned; the mass of good wines made at Rudesheim, below the village, being of the third kind of grape, which is called the Orleans grape.

To Oppenheim the plains of the Rhine and Maine are united. From that place we see the commencement of the Berg-strasse, or mountains which separate at first the plains of the Rhine and Maine, then cross the Neckar at Heidelberg, and from thence forms the separation between the plains of the Neckar and Rhine, leaving those of the Rhine about ten or twelve miles wide. These plains are sometimes black, sometimes mulatto, always rich. They are in corn, potatoes, and some willow. On the other side again, that is, on the west side, the hills keep at first close to the river. They are about one hundred and fifty or two hundred feet high, sloping, red, good, and mostly in vines. Above Oppenheim they begin to go off till they join the mountains of Lorraine and Alsace, which separate the waters of the Moselle and Rhine, leaving to the whole valley of the Rhine about twenty or twenty-five miles breadth. About Worms these plains are sandy, poor, and often covered only with small pine.

April 13th. *Manheim.* There is a bridge over the Rhine here, supported on thirty-nine boats, and one over the Neckar on eleven boats. The bridge over the Rhine is twenty-one and a half feet wide from rail to rail. The boats are four feet deep, fifty-two feet long, and nine feet eight inches broad. The space between boat and boat is eighteen feet ten inches. From these data the length of the bridge should be 9ft. 8in. + 18ft. 10in. × 40 = 1140 feet. In order to let vessels pass through, two boats well framed together, with their flooring, are made to fall down stream together. Here, too, they make good ham. It is fattened on round potatoes and Indian corn. The farmers smoke what is for their own use in their chimneys. When it is made for sale, and in greater quantities than the chimney will hold, they make the smoke of the chimney pass into an adjoining loft, or apartment, from which it has no issue; and here they hang their hams.

An economical curtain bedstead. The bedstead is seven feet by four feet two inches. From each leg there goes up an iron rod three-eighths of an inch in diameter. Those from the legs at the foot of the bed meeting at top as in the margin, and those from the head meeting in like manner, so that the two at the foot form one point, and the two at the head another. On these points lays an oval iron rod. whose



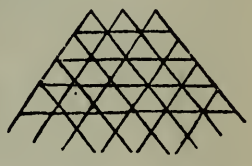
long diameter is five feet, and short one three feet one inch. There is a hole through this rod at each end, by which it goes on firm on the point of the upright rods. Then a nut screws it down firmly. Ten breadths of stuff two feet ten inches wide, and eight feet six inches long, form the curtains. There is no top nor vallons. The rings are fastened within two and a half or three inches of the top on the inside, which two and a half or three inches stand up, and are an ornament somewhat like a ruffle.

I have observed all along the Rhine that they make the oxen draw by the horns. A pair of very handsome chariot horses, large, bay, and seven, years old, sell for fifty louis. One pound of beef sells for eight kreitzers, (*i. e.* eight sixtieths of a florin;) one pound of mutton or veal, six kreitzers; one pound of pork, seven and a half kreitzers; one pound of ham, twelve kreitzers; one pound of fine, wheat bread, two kreitzers; one pound of butter, twenty kreitzers; one hundred and sixty pounds of wheat, six francs; one hundred and sixty pounds of maize, five francs; one hundred and sixty pounds of potatoes, one franc; one hundred pounds of hay, one franc; a cord of wood (which is 4 4 and 6 feet), seven francs; a laborer by the day receives twenty-four kreitzers, and feeds himself. A journee or arpent of land (which is eight by two hundred steps), such as the middling plains of the Rhine, will sell for two hundred francs. There are more soldiers here than other inhabitants, to wit: six thousand

soldiers and four thousand males of full age of the citizens, the whole number of whom is reckoned at twenty thousand.

April 14th. *Manheim. Dossenheim. Heidelberg. Schwetzingen Manheim.* The elector placed, in 1768, two males and five females of the Angora goat at Dossenheim, which is at the foot of the Bergstrasse mountains. He sold twenty-five last year, and has now seventy. They are removed into the mountains four leagues beyond Dossenheim. Heidelberg is on the Neckar just where it issues from the Bergstrasse mountains, occupying the first skirt of plain which it forms. The château is up the hill a considerable height. The gardens lie above the château, climbing up the mountain in terraces. This château is the most noble ruin I have ever seen, having been reduced to that state by the French in the time of Louis XIV., 1693. Nothing remains under cover but the chapel. The situation is romantic and pleasing beyond expression. It is on a great scale much like the situation of Petrarch's château, at Vaucluse, on a small one. The climate, too, is like that of Italy. The apple, the pear, cherry, peach, apricot, and almond, are all in bloom. There is a station in the garden to which the château re-echoes distinctly four syllables. The famous tun of Heidelberg was new built in 1751, and made to contain thirty foudres more than the ancient one. It is said to contain two hundred and thirty-six foudres of one thousand two hundred bottles each. I

measured it, and found its length external to be twenty-eight feet ten inches; its diameter at the end twenty feet three inches; the thickness of the staves seven and a half inches; thickness of the hoops seven and a half inches; besides a great deal of external framing. There is no wine in it now. The gardens at Schwetzingen show how much money may be laid out to make an ugly thing. What is called the English quarter, however, relieves the eye from the straight rows of trees, round and square basins, which constitute the great mass of the garden. There are some tolerable morsels of Grecian architecture, and a good ruin. The Aviary, too, is clever. It consists of cells of about eight feet wide, arranged round, and looking into a circular area of about forty or fifty feet diameter. The cells have doors both of wire and glass, and have small shrubs in them. The plains of the Rhine on this side are twelve miles wide, bounded by the Bergstrasse mountains. These appear to be eight hundred or a thousand feet high; the lower part in vines, from which is made what is called the vin de Nichar; the upper in chestnut. There are some cultivated spots however, quite to the top. The plains are generally mulatto, in corn principally; they are planting potatoes in some parts, and leaving others open for maize and tobacco. Many peach and other fruit trees on the lower part of the mountain. The paths on some parts



of these mountains are somewhat in the style represented in the margin.

Manheim. Kaeferthal. Manheim. Just beyond Kaeferthal is an extensive, sandy waste, planted in pine, in which the elector has about two hundred sangliers, tamed. I saw about fifty; the heaviest I am told, would weigh about three hundred pounds. They are fed on round potatoes, and range in the forest of pines. At the village of Kaeferthal is a plantation of rhubarb, begun in 1769, by a private company. It contains twenty arpens or jourries, and its culture costs about four or five hundred francs a year; it some times employs forty or fifty laborers at a time. The best age to sell the rhubarb at is the fifth or sixth year, but the sale being dull, they keep it sometimes to the tenth year; they find it best to let it remain in the ground. They sell about two hundred kentals a year at two or three francs a pound, and could sell double that quantity from the ground if they could find a market. The apothecaries of Frankfort and of England are the principal buyers. It is in beds, resembling lettuce-beds; the plants four, five or six feet apart. When dug, a thread is passed through every piece of root, and it is hung separate in a kind of rack; when dry it is rasped; what comes off is given to the cattle.

April 15. *Manheim. Spire. Carlsruhe.* The valley preserves its width, extending on each side of the river about ten or twelve miles, but the soil

loses much in its quality, becoming sandy and lean, often barren and overgrown with pine thicket. At Spire is nothing remarkable. Between that and Carlsruhe we pass the Rhine in a common scow with oars, where it is between three and four hundred yards wide. Carlsruhe is the residence of the Margrave of Baden, a sovereign prince. His château is built in the midst of a natural forest of several leagues diameter, and of the best trees I have seen in these countries: they are mostly oak, and would be deemed but indifferent in America. A great deal of money has been spent to do more harm than good to the ground—cutting a number of straight alleys through the forest. He has a pheasantry of the gold and silver kind, the latter very tame, but the former excessively shy. A little inclosure of stone, two and a half feet high and thirty feet diameter, in which are two tamed beavers. There is a pond of fifteen feet diameter in the centre, and at each end a little cell for them to retire into, which is stowed with boughs and twigs with leaves on them, which is their principal food. They eat bread also;—twice a week the water is changed. They cannot get over this wall. Some cerfs of a peculiar kind, spotted like fawns, the horns remarkably long, small and sharp, with few points. I am not sure there were more than two to each main beam, and if I saw distinctly, there came out a separate and subordinate beam from the root of each. Eight Angora goats—beautiful animals—all white. This town is

only an appendage of the château, and but a moderate one. It is a league from Durlach, half way between that and the river. I observe they twist the flues of their stoves in any form for ornament merely, without smoking, as thus, *e. g.*

April 16. *Carlsruhe. Rastadt. Scholhoven. Bischofheim. Kehl. Strasburg.* The valley of the Rhine still preserves its breadth, but varies in quality; sometimes a rich mulatto loam, sometimes a poor sand, covered with small pine. The culture is generally corn. It is to be noted, that through the whole of my route through the Netherlands and the valley of the Rhine, there is a little red clover every here and there, and a great deal of grape cultivated. The seed of this is sold to be made into oil. The grape is now in blossom. No inclosures. The fruit trees are generally blossoming through the whole valley. The high mountains of the Bergstrasse, as also of Alsace, are covered with snow. Within this day or two, the every-day dress of the country women here is black. Rastadt is a seat also of the Margrave of Baden. Scholhoven and Kehl are in his territory, but not Bischofheim. I see no beggars since I entered his government, nor is the traveller obliged to ransom himself every moment by a chausiee gold. The roads are excellent, and made so, I presume, out of the coffers of the prince. From Cleves till I enter the Margravate of Baden, the roads have been strung with beggars—

in Hesse the most, and the road tax very heavy. We pay it cheerfully, however, through the territory of Frankfort and thence up the Rhine, because fine gravelled roads are kept up; but through the Prussian, and other parts of the road below Frankfort, the roads are only as made by the carriages, there not appearing to have been ever a day's work employed on them. At Strasburg we pass the Rhine on a wooden bridge.

At *Brussels* and *Antwerp*, the fuel is pit-coal, dug in Brabant. Through all Holland it is turf. From Cleves to Cologne it is pit-coal brought from England. They burn it in open stoves. From thence it is wood, burnt in close stoves, till you get to Strasburg, where the open chimney comes again into use.

April 16th, 17th, 18th. *Strasburg.* The vin de paille is made in the neighborhood of Colmar, in Alsace, about ——— from this place. It takes its name from the circumstance of spreading the grapes on straw, where they are preserved till spring, and then made into wine. The little juice then remaining in them makes a rich sweet wine, but the dearest in the world, without being the best by any means. They charge nine florins the bottle for it in the taverns of Strasburg. It is the caprice of wealth alone which continues so losing an operation. This wine is sought because dear; while the better wine of Frontignan is rarely seen at a good table because it is cheap.

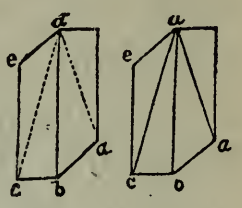
Strasburg, Saverne, Phalsbourg. As far as

Saverne the country is in waving hills and hollows; red, rich enough; mostly in small grain, but some vines; a little stone. From Saverne to Phalsbourg we cross a considerable mountain, which takes an hour to rise it.

April 19th. *Phalsbourg. Fenestrange. Moyenvic. Nancy.* Asparagus to-day at Moyenvic. The country is always either mountainous or hilly; red, tolerably good, and in small grain. On the hills about Fenestrange, Moyenvic, and Nancy, are some small vineyards where a bad wine is made. No inclosures. Some good sheep, indifferent cattle, and small horses. The most forest I have seen in France, principally of beech, pretty large. The houses, as in Germany, are of scantling, filled in with wicker and mortar, and covered either with thatch or tiles. The people, too, here as there, are gathered in villages. Oxen plough here with collars and hames. The awkward figure of their mould-board leads one to consider what should be its form. The offices of the mould-board are to receive the sod after the share has cut under it, to raise it gradually, and to reverse it. The fore-end of it, then, should be horizontal to enter under the sod, and the hind end perpendicular to throw it over; the intermediate surface changing gradually from the horizontal to the perpendicular. It should be as wide as the furrow, and of a length suited to the construction of the plough. The following would seem a good method of making it: Take a block, whose

length, breadth and thickness, are that of your intended mould-board, suppose two and a half feet long and eight inches broad and thick. Draw the lines *a d* and *c d*, figure 1, with a saw, the toothed edge of which is straight, enter at *a* and cut on, guiding the hind part of the saw on the line *a b*, and the fore part on the line *a d*, till the saw reaches the points *c* and *d*, then enter it at *c* and cut on, guiding it by the lines *c b* and *c d* till it reaches the points *b* and *d*. The quarter, *a b c d*, will then be completely cut out, and the diagonal from *d* to *b* laid bare. The piece may now be represented as in figure 2. Then saw in transversely at every two inches till the saw reaches the line *c e*, and the diagonal *b d*, and cut out the pieces with an adze. The upper surface will thus be formed. With a gauge opened to eight inches, and guided by the lines *c e*, scribe the upper edge of the board from *d b*, cut that edge perpendicular to the face of the board, and scribe it of the proper thickness. Then form the underside by the upper, by cutting transversely with the saw and taking out the piece with an adze. As the upper edge of the wing of the share rises a little, the fore end of the board, *b c*, will rise as much from a strict horizontal position, and will throw the hind end, *e d*, exactly as much beyond the perpendicular, so as to promote the reversing of the sod. The women here, as in Germany, do all sorts of work. While one

FIG. 1. FIG. 2.



considers them as useful and rational companions, one cannot forget that they are also objects of our pleasures; nor can they ever forget it. While employed in dirt and drudgery, some tag of a ribbon, some ring, or bit of bracelet, earbob or necklace, or something of that kind, will show that the desire of pleasing is never suspended in them. It is an honorable circumstance for man, that the first moment he is at his ease, he allots the internal employments to his female partner, and takes the external on himself. And this circumstance, or its reverse, is a pretty good indication that a people are, or are not at their ease. Among the Indians, this indication fails from a particular cause: every Indian man is a soldier or warrior, and the whole body of warriors constitute a standing army, always employed in war or hunting. To support that army, there remain no laborers but the women. Here, then, is so heavy a military establishment, that the civil part of the nation is reduced to women only. But this is a barbarous perversion of the natural destination of the two sexes. Women are formed by nature for attentions, not for hard labor. A woman never forgets one of the numerous train of little offices which belong to her. A man forgets often.

April 20th. *Nancy. Toule. Void. Ligny en Barrois. Bar le Duc. St. Dizier.* Nancy itself is a neat little town, and its environs very agreeable. The valley of the little branch of the Moselle, on which

it is, is about a mile wide: the road then crossing the head-waters of the Moselle, the Maese, and the Marne, the country is very hilly, and perhaps a third of it poor and in forests of beech: the other two-thirds from poor up to middling, red, and stony. Almost entirely in corn, now and then only some vines on the hills. The Moselle at Toule is thirty or forty yards wide: the Maese near Void about half that: the Marne at St. Dizier about forty yards. They all make good plains of from a quarter of a mile to a mile wide. The hills of the Maese abound with chalk. The rocks coming down from the tops of the hills, on all the road of this day, at regular intervals like the ribs of an animal, have a very irregular appearance. Considerable flocks of sheep and asses, and, in the approach to St. Dizier, great plantations of apple and cherry trees; here and there a peach tree, all in general bloom. The roads through Lorraine are strung with beggars.

April 21st. *St. Dizier. Vitry le Francais. Chalons sur Marne. Epernay.* The plains of the Marne and Sault uniting, appear boundless to the eye till we approach their confluence at Vitry, where the hills come in on the right; after that the plains are generally about a mile, mulatto, of middling quality, sometimes stony. Sometimes the ground goes off from the river so sloping, that one does not know whether to call it high or low land. The hills are mulatto also, but whitish, occasioned by the quantity of chalk which seems to constitute their universal

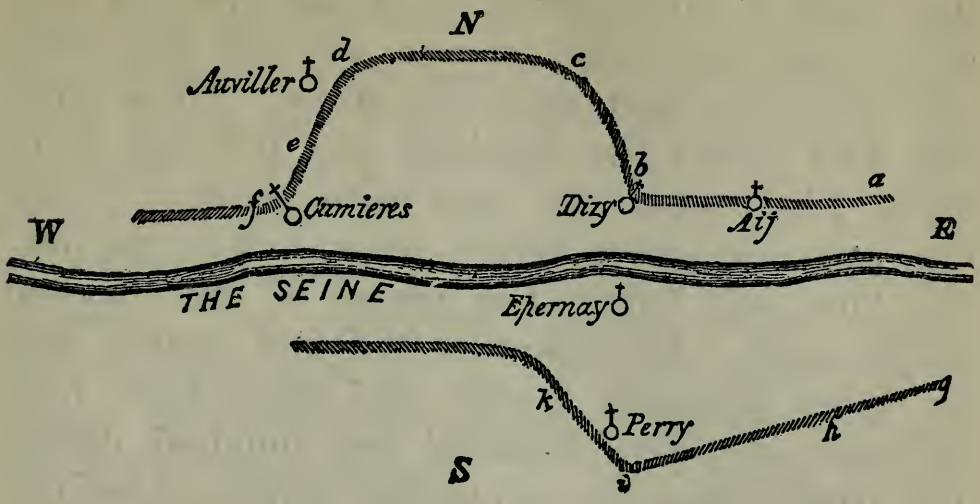
base. They are poor, and principally in vines. The streams of water are of the color of milk, occasioned by the chalk also. No inclosures, some flocks of sheep; children gathering dung in the roads. Here and there a chateau; but none considerable.

April 22d. *Epernay*. The hills abound with chalk. Of this they make lime, not so strong as stone lime, and therefore to be used in greater proportion. They cut the blocks into regular forms also, like stone, and build houses of it. The common earth, too, well impregnated with this, is made into mortar, moulded in the form of brick, dried in the sun, and houses built of them which last one hundred or two hundred years. The plains here are a mile wide, red, good, in corn, clover, lucerne, St. foin. The hills are in vines, and this being precisely the canton where the most celebrated wines of Champagne are made, details must be entered into. Remember, however, that they will always relate to the white wines, unless where the red are expressly mentioned. The reason is that their red wines, though much esteemed on the spot, are by no means esteemed elsewhere equally with their white; nor do they merit equal esteem.

A topographical sketch of the position of the wine villages, the course of the hills, and consequently the aspect of the vineyards.

Soil, meagre, mulatto clay, mixed with small broken stone, and a little hue of chalk. Very dry.

Aspect, may be better seen by the annexed diagram. The wine of Aij is made from *a* to *b*, those



of Dizij from *b* to *c*, Auvillij *d* to *e*, Cumieres *e* to *f*, Epernay *g* to *h*, Perij *i* to *k*. The hills are generally about two hundred and fifty feet high. The good wine is made only in the middle region. The lower region, however, is better than the upper; because this last is exposed to cold winds, and a colder atmosphere.

Culture. The vines are planted two feet apart. Afterwards they are multiplied (provignés). When a stock puts out two shoots they lay them down, spread them open and cover them with earth, so as to have in the end about a plant for every square foot. For performing this operation they have a hook, of this shape, ⊤ and nine inches long, which, being stuck in the ground, holds down the main stock, while the laborer separates and covers

the new shoot. They leave two buds above the ground. When the vine has shot up high enough, they stick it with split sticks of oak, from an inch to an inch and a half square, and four feet long, and tie the vine to its stick with straw. These sticks cost two florins the hundred, and will last forty years. An arpent, one year with another, in the fine vineyards, gives twelve pieces, and in the inferior vineyards twenty-five pieces, of two hundred bottles each. An arpent of the first quality sells for three thousand florins, and there have been instances of seven thousand two hundred florins. The arpent contains one hundred verges, of twenty-two pieds square. The arpent of inferior quality sells at one thousand florins. They plant the vines in a hole about a foot deep, and fill that hole with good mould, to make the plant take. Otherwise it would perish. Afterwards, if ever they put dung, it is very little. During wheat harvest there is a month or six weeks that nothing is done in the vineyard, that is to say, from the 1st of August to the beginning of vintage. The vintage commences early in September, and lasts a month. A day's work of a laborer in the busiest season is twenty sous, and he feeds himself: in the least busy season it is fifteen sous. Corn lands are rented from four florins to twenty-four; but vine lands are never rented. The three façons (or workings) of an arpent cost fifteen florins. The whole year's expense of an arpent is worth one hundred florins.

Grapes.—The bulk of their grapes are purple, which they prefer for making even white wine. They press them very lightly, without treading or permitting them to ferment at all, for about an hour; so that it is the beginning of the running only which makes the bright wine. What follows the beginning is of a straw color, and therefore not placed on a level with the first. The last part of the juice, produced by strong pressure, is red and ordinary. They choose the bunches with as much care, to make wine of the very first quality, as if to eat. Not above one-eighth of the whole grapes will do for this purpose. The white grape, though not so fine for wine as the red, when the red can be produced, and more liable to rot in a moist season, yet grows better if the soil be excessively poor, and therefore in such a soil is preferred, or rather, is used of necessity, because there the red would not grow at all.

Wine.—The white wines are either mousseux, sparkling, or non-mousseux, still. The sparkling are little drunk in France, but are almost alone known and drunk in foreign countries. This makes so great a demand, and so certain a one, that it is the dearest by about an eighth, and therefore they endeavor to make all sparkling if they can. This is done by bottling in the spring, from the beginning of March till June. If it succeeds, they lose abundance of bottles, from one-tenth to one-third. This is another cause for increasing the price. To make the

still wine, they bottle in September. This is only done when they know from some circumstance that the wine will not be sparkling. So if the spring bottling fails to make a sparkling wine, they decant it into other bottles in the fall, and it then makes the very best still wine. In this operation, it loses from one-tenth to one-twentieth by sediment. They let it stand in the bottles in this case forty-eight hours, with only a napkin spread over their mouths, but no cork. The best sparkling wine, decanted in this manner, makes the best still wine, and which will keep much longer than that originally made still by being bottled in September. The sparkling wines lose their briskness the older they are, but they gain in quality with age to a certain length. These wines are in perfection from two to ten years old, and will even be very good to fifteen. 1766 was the best year ever known. 1775 and 1776 next to that. 1783 is the last good year, and that not to be compared with those. These wines stand icing very well.

Aij. M. Dorsay makes one thousand and one hundred pieces, which sell, as soon as made, at three hundred florins, and in good years four hundred florins, in the cask. I paid in his cellar, to M. Louis, his homme d'affaires, for the remains of the year 1783, three florins ten sous the bottle. Sparkling Champagne, of the same degree of excellence, would have cost four florins, (the piece and demiqueue are the same; the feuillette is one hun-

dred bottles). M. le Duc makes four hundred to five hundred pieces. M. de Villermont, three hundred pieces. M. Janson, two hundred and fifty pieces. All of the first quality, red and white in equal quantities.

Auvillaij. The Benedictine monks make one thousand pieces, red and white, but three-fourths red, both of the first quality. The king's table is supplied by them. This enables them to sell at five hundred and fifty florins the piece. Though their white is hardly as good as Dorsay's, their red is the best. L'Abbatiale, belonging to the bishop of the place, makes one thousand to twelve hundred pieces, red and white, three-fourths red, at four hundred to five hundred and fifty florins, because neighbors to the monks.

Cumieres is all of the second quality, both red and white, at one hundred and fifty to two hundred florins the piece.

Epernay. Madame Jermont makes two hundred pieces at three hundred florins. M. Patelaine, one hundred and fifty pieces. M. Mare, two hundred pieces. M. Chertems, sixty pieces. M. Lauchay, fifty pieces. M. Cousin (Aubergiste de l'hôtel de Rohan à Epernay), one hundred pieces. M. Pierrot, one hundred pieces. Les Chanoines regulieres d'Epernay, two hundred pieces. Mesdames les Ursulines religieuses, one hundred pieces. M. Gilette, two hundred pieces. All of the first quality; red and white in equal quantities.

Pierrij. M. Casotte makes five hundred pieces. M. de la Motte, three hundred pieces. M. de Failli, three hundred pieces. I tasted his wine of 1779, one of the good years. It was fine, though not equal to that of M. Dorsay, of 1783. He sells it at two florins ten sous to merchants, and three florins to individuals. Les Seminaristes, one hundred and fifty pieces. M. Hoquart, two hundred pieces. All of the first quality; white and red in equal quantities.

At Cramont, also, there are some wines of the first quality made. At Avisi also, and Aucy, Le Meni, Mareuil, Verzis-Verzenni. This last place belongs to the Marquis de Sillery. The wines are carried to Sillery, and there stored, whence they are called Vins de Sillery, though not made at Sillery.

All these wines of Epernay and Pierrij sell almost as dear as M. Dorsay's, their quality being nearly the same. There are many small proprietors who might make wine of the first quality, if they would cull their grapes, but they are too poor for this. Therefore, the proprietors before named, whose names are established, buy of the poorer ones the right to cull their vineyards, by which means they increase their quantity, as they find about one-third of the grapes will make wines of the first quality.

The lowest-priced wines of all are thirty florins the piece, red or white. They make brandy of the pumice. In very bad years, when their wines become vinegar, they are sold for six florins the

piece, and made into brandy. They yield one-tenth brandy.

White Champagne is deemed good in proportion as it is silky and still. Many circumstances derange the scale of wines. The proprietor of the best vineyard, in the best year, having bad weather come upon him while he is gathering his grapes, makes a bad wine, while his neighbor, holding a more indifferent vineyard, which happens to be ingathering while the weather is good, makes a better. The M. de Casotte at Pierrij formerly was the first house. His successors, by some imperceptible change of culture, have degraded the quality of their wines. Their cellars are admirably made, being about six, eight or ten feet wide, vaulted, and extending into the ground, in a kind of labyrinth, to a prodigious distance, with an air-hole of two feet diameter every fifty feet. From the top of the vault to the surface of the earth, is from fifteen to thirty feet. I have nowhere seen cellars comparable to these. In packing their bottles, they lay on their side; then cross them at each end, they lay laths, and on these another row of bottles, heads and points; and so on. By this means, they can take out a bottle from the top, or where they will.

April 23d. *Epernay. Château Thieray. St. Jean. Meaux. Vergalant. Paris.* From Epernay to St. Jean the road leads over hills, which in the beginning are indifferent, but get better towards the last. The plains, wherever seen, are inconsiderable.

After passing St. Jean, the hills become good, and the plains increase. The country about Vergalant is pretty. A skirt of a low ridge which runs in on the extensive plains of the Marne and Seine, is very picturesque. The general bloom of fruit trees proves there are more of them than I had imagined from travelling in other seasons, when they are less distinguishable at a distance from the forest trees.

Travelling Notes for Mr. Rutledge and Mr. Shippen, June 3, 1788.

General Observations.—On arriving at a town, the first thing is to buy the plan of the town, and the book noting its curiosities. Walk round the ramparts when there are any, go to the top of a steeple to have a view of the town and its environs.

When you are doubting whether a thing is worth the trouble of going to see, recollect that you will never again be so near it, that you may repent the not having seen it, but can never repent having seen it. But there is an opposite extreme too, that is, the seeing too much. A judicious selection is to be aimed at, taking care that the indolence of the moment have no influence in the decision. Take care particularly not to let the porters of churches, cabinets, etc., lead you through all the little details of their profession, which will load the memory with trifles, fatigue the attention, and waste that and your time. It is difficult to confine these

people to the few objects worth seeing and remembering. They wish for your money, and suppose you give it the more willingly the more they detail to you.

When one calls in the taverns for the *vin du pays*, they give what is natural and unadulterated and cheap: when *vin etrangere* is called for, it only gives a pretext for charging an extravagant price for an unwholesome stuff, very often of their own brewery. The people you will naturally see the most of will be tavern keepers, *valets de place*, and postilions. These are the hackneyed rascals of every country. Of course they must never be considered when we calculate the national character.

Objects of attention for an American.—1. Agriculture. Everything belonging to this art, and whatever has a near relation to it. Useful or agreeable animals which might be transported to America. Species of plants for the farmer's garden, according to the climate of the different States.

2. Mechanical arts, so far as they respect things necessary in America, and inconvenient to be transported thither ready-made, such as forges, stone quarries, boats, bridges, (very especially,) etc., etc.

3. Lighter mechanical arts, and manufactures. Some of these will be worth a superficial view; but circumstances rendering it impossible that America should become a manufacturing country during the time of any man now living, it would be a waste of attention to examine these minutely.

4. Gardens peculiarly worth the attention of an American, because it is the country of all others where the noblest gardens may be made without expense. We have only to cut out the superabundant plants.

5. Architecture worth great attention. As we double our numbers every twenty years, we must double our houses. Besides, we build of such perishable materials, that one half of our houses must be rebuilt in every space of twenty years, so that in that time, houses are to be built for three-fourths of our inhabitants. It is, then, among the most important arts; and it is desirable to introduce taste into an art which shows so much.

6. Painting. Statuary. Too expensive for the state of wealth among us. It would be useless, therefore, and preposterous, for us to make ourselves connoisseurs in those arts. They are worth seeing, but not studying.

7. Politics of each country, well worth studying so far as respects internal affairs. Examine their influence on the happiness of the people. Take every possible occasion for entering into the houses of the laborers, and especially at the moments of their repast; see what they eat, how they are clothed, whether they are obliged to work too hard; whether the government or their landlord takes from them an unjust proportion of their labor; on what footing stands the property they call their own, their personal liberty, etc., etc.

8. Courts. To be seen as you would see the tower of London or menagerie of Versailles with their lions, tigers, hyenas, and other beast of prey, standing in the same relation to their fellows. A slight acquaintance with them will suffice to show you that, under the most imposing exterior, they are the weakest and worst part of mankind. Their manners, could you ape them, would not make you beloved in your own country, nor would they improve it could you introduce them there to the exclusion of that honest simplicity now prevailing in America, and worthy of being cherished.

Queries as to the Rights and Duties of the United States under her Treaties with France, and the Laws of Neutrality.

1st. Do the treaties between the United States and France give to France or her citizens a *right*, when at war with a power with whom the United States are at peace, to fit out originally and from the ports of the United States, vessels armed for war with or without commission?

2d. If they give such a right, does it extend to all manner of armed vessels, or to particular kinds only? If the latter, to what kinds does it extend?

3d. Do they give to France or her citizens, in the case supposed, a right to refit, or arm anew vessels, which, before their coming within any port of the

United States, were armed for war with or without commission?

4th. If they give such a right, does it extend to all manner of armed vessels, or to particular kinds only? If the latter, to what kinds does it extend? Does it include an *augmentation* of force, or does it only extend to placing the vessel in *statu quo?*

5th. Does the twenty-second article of the treaty of commerce, in the case supposed, extend to vessels armed for war on account of the government of a power at war with France, or to merchant-armed vessels belonging to the subjects or citizens of that power, (viz.) of the description of those which, by the English, are called letters of marque ships; by the French, "batiments armes en marchandize et en guerre"?

6th. Do the treaties aforesaid prohibit the United States from permitting in the case supposed, the armed vessels belonging to a power at war with France, or to the citizens or subjects of such power to come within the ports of the United States, there to remain as long as they may think fit, except in the case of their coming in with prizes made of the subjects or property of France?

7th. Do they prohibit the United States from permitting in the case supposed, vessels armed on account of the government of a power at war with France, or vessels armed for merchandise and war, with or without commission, on account of the subjects or citizens of such power, or any vessels, other

than those commonly called privateers, to sell freely whatever they may bring into the ports of the United States, and freely to purchase in and carry from the ports of the United States, goods, merchandise, and commodities, except as excepted in the last question?

8th. Do they oblige the United States to permit France in the case supposed, to sell in their ports the prizes which she or her citizens may have made, of any power at war with her, the citizens or subjects of such powers, or exempt from the payment of the usual duties on ships and merchandise, the prizes so made, in the case of their being to be sold within the ports of the United States.

9th. Do those treaties, particularly the Consular Convention, authorize France, as of right, to erect courts within the jurisdiction of the United States, for the trial and condemnation of prizes made by armed vessels in her service?

10th. Do the laws and usages of nations authorize her, as of right, to erect such courts for such purposes?

11th. Do the laws of neutrality, considered relatively to the treaties of the United States with foreign powers, or independently of those treaties, permit the United States in the case supposed, to allow to France or her citizens, the privilege of fitting out *originally* in and from the ports of the United States, vessels armed and commissioned for war, either on account of the government, or of private persons, or both?

12th. Do those laws permit the United States to extend the like privilege to a power at war with France?

13th. Do the laws of neutrality, considered as aforesaid, permit the United States, in the case supposed, to allow to France or her citizens the privilege of refitting, or arming anew, vessels which, before their coming within the United States, were armed and commissioned for war? May such privilege include an *augmentation* of the force of such vessels?

14th. Do those laws permit the United States to extend the like privilege to a power at war with France?

15th. Do those laws in the case supposed, permit merchant vessels of either of the powers at war to arm in the ports of the United States without being commissioned? May this privilege be rightfully refused?

16th. Does it make any difference in point of principle, whether a vessel be armed for war, or the force of an armed vessel be augmented in the ports of the United States with *means* procured in the United States, or with means brought into them by the party who shall so arm or augment the force of such vessels? If the first be unlawful, is the last lawful?

17th. Do the laws of neutrality, considered as aforesaid, authorize the United States to permit France, her subjects, or citizens, the sale within

their ports of prizes made of the subjects or property of a power at war with France, before they have been carried into some port of France and there condemned, refusing the privilege to her enemy?

18th. Do those laws authorize the United States to permit to France the erection of courts within their territory and jurisdiction, for the trial and condemnations of prizes refusing that privilege to a power at war with France?

19th. If any armed vessel of foreign power at war with another, with whom the United States are at peace, shall make prize of the subjects or property of its enemy within the territory or jurisdiction of the United States, have not the United States a right to cause restitution of such prize? Are they bound or not by the principles of neutrality so to do, if such prize shall be within their power?

20th. To what distance, by the laws and usages of nations, may the United States exercise the right of prohibiting the hostilities of foreign powers at war with each other, within rivers, bays, and arms of the sea, and upon the sea along the coast of the United States?

21st. Have vessels armed for war, under commission from a foreign power, a right without the consent of the United States, to engage within their jurisdiction seamen or soldiers, for the service of such vessels, being citizens of that power or of another foreign power, or citizens of the United States?

22d. What are the articles by name to be prohibited to both or either party?

23d. To what extent does the reparation permitted in the nineteenth article of the treaty with France, go?

24th. What may be done as to vessels armed in our ports before the President's proclamation? And what as to the prizes they made *before* and *after?*

25th. May we within our own ports sell ships to both parties prepared merely for merchandise? May they be pierced for guns?

26th. May we carry either or both kinds to the ports of the belligerent powers for sale?

27th. Is the principle that free bottoms make free goods, and enemies' bottoms make enemies' goods, to be considered as now an established part of the law of nations?

28th. If it is not, are nations with whom we have no treaties, authorized by the law of nations to take out of our vessels enemy passengers, not being soldiers, and their baggage?

29th. May an armed vessel belonging to any of the belligerent powers, follow *immediately* merchant vessels, enemies departing from our ports, for the purpose of making prizes of them? If not, how long ought the former to remain after the latter has sailed? And what shall be considered as the place of departure, from which the time is to be counted? And how are the facts to be ascertained?

The first twenty-one questions by Alexander Hamilton.

Twenty-two to twenty-eight, by Thomas Jefferson.

Twenty-ninth, by the President.

Heads of Consideration on the Conduct we are to Observe in the War between Spain and Great Britain, and Particularly should the Latter attempt the Conquest of Louisiana and the Floridas.

The dangers to us, should Great Britain possess herself of those countries:—

She will possess a territory equal to half ours beyond the Mississippi.

She will reduce that half of ours which is on this side of the Mississippi;—by her language, laws, religion, manners, government, commerce, capital;—by the possession of New Orleans, which draws to it the dependence of all the waters of the Mississippi;—by the markets she can offer them in the Gulf of Mexico and elsewhere.

She will take from the remaining part of our States the markets they now have for their produce;—by furnishing those markets cheaper with the same articles, tobacco, rice, indigo, bread, lumber, arms, naval stores, furs.

She will have then possessions double the size of ours, as good in soil and climate.

She will encircle us completely, by these posses-

sions on our land-board, and her fleets on our sea-board. Instead of two neighbors balancing each other, we shall have one with more than the strength of both.

Would the prevention of this be worth a war?

Consider our abilities to take part in a war. Our operations would be by land only. How many men should we need to employ?—their cost? Our resources of taxation and credit equal to this.

Weigh the evil of this new accumulation of debt against the loss of markets, and eternal expense and danger from so overgrown a neighbor.

But this is on supposition that France, as well as Spain, shall be engaged in the war; for, with Spain alone, the war would be unsuccessful, and our situation rendered worse.

No need to take a part in the war as yet. We may choose our own time. Delay gives us many chances to avoid it altogether.

In such a choice of objects, Great Britain may not single out Louisiana and the Floridas. She may fail in her attempt on them. France and Spain may recover them.

If all these chances fail, we should have to re-take them. The difference between re-taking and preventing, overbalanced by the benefits of delay. Delay enables us to be better prepared to obtain from the allies a price for our assistance.

Suppose these our ultimate views, what is to be done at this time?

1. As to Spain:—

If she be as sensible as we are, that she cannot save Louisiana and the Floridas, might she not prefer their independence to their subjection to Great Britain? Does not the proposition of the Count d'Estaing furnish us an opening to communicate our ideas on this subject to the court of France, and through them to that of Madrid? and our readiness to join them in guaranteeing the independence of those countries? This might save us from a war, if Great Britain respected our weight in a war; and if she does not, the object would place the war on popular ground with us.

2. As to England?—say to Beckwith,—

That as to a treaty of commerce, we would prefer amicable to adversary arrangements, though the latter would be infallible, and in our own power: that our ideas are, that such a treaty should be found in perfect reciprocity, and would, therefore, be its own price: that as to an alliance, we can say nothing till its object be shown, and that it is not to be inconsistent with existing engagements: that in the event of a war between Great Britain and Spain, we are disposed to be strictly neutral: that, however, we should view with extreme uneasiness any attempts of either power to seize

the possessions of the other on our frontier, as we consider our own safety interested in a due balance between our neighbors. [It might be deemed advantageous to express this latter sentiment, because, if there be any difference of opinion in their councils, whether to bend their force against North or South America, or the islands (and certainly there is room for difference), and if these opinions be nearly balanced, that balance ought to be determined by the prospect of having an enemy the more or less, according to the object they should select.]

July 12th, 1790.

Heads of Consideration on the Navigation of the Mississippi, for Mr. Carmichael, Aug. 22d, 1790.

We have a *right* to the navigation of the Mississippi—1, by Nature; 2, by Treaty.

It is *necessary* to us. More than half the territory of the United States is on the waters of that river. Two hundred thousand of our citizens are settled on them, of whom forty thousand bear arms. These have no other outlet for their tobacco, rice, corn, hemp, lumber, house timber, ship timber.

We have hitherto respected the indecision of Spain, because we wish peace;—because our western citizens have had vent at home for their productions.

A surplus of production begins now to demand

foreign markets. Whenever they shall say, "We cannot, we will not, be longer shut up," the United States will be reduced to the following dilemma: 1. To force them to acquiescence. 2. To separate from them, rather than take part in a war against Spain. 3. Or to preserve them in our Union, by joining them in the war.

The 1st is neither in our principles, nor in our power. 2d. A multitude of reasons decide against the second. It may suffice to speak out one: were we to give up half our territory rather than engage in a just war to preserve it, we should not keep the other half long. 3d. The third is the alternative we must adopt.

How are we to obtain that navigation?

(A.) By *Force*.

I. Acting *separately*. That we can effect this with certainty and promptitude, circumstances decide.

Objection. We cannot retain New Orleans, for instance, were we to take it.

Answer. A moderate force may be so secured, as to hold out till succored. Our succors can be prompt and effectual. Suppose, after taking it, we withdraw our force. If Spain retakes it by an expedition, we can recover it by a counter-expedition, and so as often as the case shall happen. Their expedition will be slow, expensive, and lead to catastrophes. Ours sudden, economical, and a check

can have no consequences. We should associate the country to our Union. The inhabitants wish this. They are not disposed to be of the Spanish government. It is idle in Spain to suppose our Western inhabitants will unite with them. They could be quiet but a short time under a government so repugnant to their feelings. Were they to come under it for present purposes, it would be with a view to throw it off soon. Should they remain, they would communicate a spirit of independence to those with whom they should be mixed.

II. Acting in *conjunction* with Great Britain, and with a view to partition. The Floridas (including New Orleans) would be assigned to us. Louisiana (or all the Western waters of the Mississippi) to them. We confess that such an alliance is not what we would wish. Because it may eventually lead us into embarrassing situations with our best friend, and put the power of two neighbors into the hands of one. L. Lansdowne has declared he gave the Floridas to Spain rather than the United States as a bone of discord with the House of Bourbon, and of re-union with Great Britain. Connolly's attempt (as well as other facts) proves they keep it in view.

(B.) By *Negotiation.*

I. What must Spain do of *necessity?* The con-

duct of Spain has proved that the occlusion of the Mississippi is system with her. If she opens it now, it will be because forced by imperious circumstances. She will consequently shut it again when these circumstances cease. Treaty will be no obstacle. Irregularities, real or pretended, in our navigators, will furnish color enough. Perpetual broils, and finally war will ensue. Prudence, and even necessity, imposes on us the law of settling the matter now, *finally*, and not by *halves*. With experience of the past and prospect of the future, it would be imbecility in us to accept the naked navigation. With that, we must have what is necessary to its use, and without which it would be useless to secure its continuance; that is, a port near the mouth to receive our vessels and protect the navigation. But even this will not secure the Floridas and Louisiana against Great Britain. If we are neutral, she will wrest those possessions from Spain. The inhabitants (French, English, Scotch, American) would prefer England to Spain.

II. What then had Spain better do of *choice?* Cede to us all territory on our side of the Mississippi: on condition that we guarantee all her possessions on the Western waters of that river, she agreeing further, to subsidize us if the guarantee brings us into the war.

Should Great Britain possess herself of the Floridas and Louisiana, her governing principles are conquest, colonization, commerce, monopoly. She will establish powerful colonies in them. These can be poured into the Gulf of Mexico for any sudden enterprise there, or invade Mexico, their next neighbor, by land. Whilst a fleet co-operates along shore, and cuts off relief. And proceed successively from colony to colony.

With respect to us, if Great Britain establishes herself on our whole land-board our lot will be bloody and eternal war, or indissoluble confederacy. Which ought we to choose? What will be the lot of the Spanish colonies in the jaws of such a confederacy? What will secure the ocean against the monopoly?

Safer for Spain that we should be her neighbor, than England. Conquest not in our principles: inconsistent with our government. Not our interest to cross the Mississippi for ages. And will never be our interest to remain united with those who do. Intermediate chances save the trouble of calculating so far forward.

Consequences of this cession, and guarantee: 1. Every subject of difference will be removed from between Spain and the United States. 2. Our interest will be strongly engaged in her retaining her American pos-

sessions. 3. Spain will be quieted as to Louisiana, and her territories west of that. 4. She may employ her whole force in defence of her islands and Southern possessions. 5. If we preserve our neutrality, it will be a very partial one to her. 6. If we are forced into the war, it will be, as we wish, on the side of the House of Bourbon. 7. Her privateers will commit formidable depredation on the British trade, and occupy much of their force. 8. By withholding supplies of provision, as well as by concurring in expeditions, the British islands will be in imminent danger. 9. Their expenses of precaution, both for their continental and insular possessions, will be so augmented as to give a hope of running their credit down. In fine, for a narrow slip of barren, detached, and expensive country, Spain secures the rest of her territory, and makes an ally where she might have a dangerous enemy.

Questions to be Considered of.

I. As to France.

Shall it be proposed to M. de Ternant to form a treaty ad referendum to this effect: The citizens of the United States and of France, their vessels, productions and manufactures, shall be received and considered each in all the dominions of the other

as if they were the native citizens, or the ships, productions, or manufactures of the other; and the productions of the sea shall be received in all the dominions of each, as if they were the productions of the country by the industry of whose citizens they have been taken or produced from the sea. Saving only as to the persons of their citizens, that they shall continue under those in capacities for office, each with the other, which the constitution of France, or of the United States, or any of them, have or shall establish against foreigners of all nations, without exception?

If not, shall a treaty be proposed to him ad referendum, in which the conditions shall be detailed on which the persons, ships, productions, and manufactures of each shall be received with the other, and the imports to which they shall be liable be formed into a tariff?

Shall the Senate be consulted in the beginning, in the middle, or only at the close of this transaction?

II. As to England.

Shall Mr. Hammond be *now* asked whether he is instructed to give us any explanations of the intentions of his court, as to the detention of our Western posts, and other infringements of our treaty with them?

Shall he be now asked whether he is authorized to conclude, or to negotiate any commercial arrangements with us?

November 26, 1791.

Plan of a Bill concerning Consuls.

The matter of the bill will naturally divide as follows:

I. Foreign consuls residing within the United States under a convention.

II. Consuls of the United States residing in foreign countries under a convention.

III. Provision for future conventions, and cases where there is no convention.

Preliminary observations.—Nothing should be inserted in the bill which is fully and adequately provided for by the convention with France, because weak magistrates may infer from thence, that the parts omitted were not meant by the legislature to be enforced.

Are not the first, second and third sections of the printed bill objectionable in this view? The instructions of the Executive to their consuls will of course provide for the notification directed in the second clause.

I. For carrying into full effect the convention between his most Christian Majesty and the United States of America, entered into for the purpose of defining and establishing the functions and privileges of their respective consuls and vice-consuls, Be it enacted by the Senate and House of Representatives of the United States of America, that where, in the seventh article of the said convention, it is agreed when there shall be no consul or vice-

consul of his most Christian King to attend to the saving of the wreck of any French vessel stranded on the coast of the United States, or that the residence of the said consul or vice-consul (he not being at the place of the wreck) shall be more distant from the same place than that of the competent judge of the country, the latter shall immediately proceed to perform the office therein prescribed, the nearest (here name the officer) shall be the competent judge designated in the said article, and it shall be incumbent on him to perform the office prescribed in the said article, and according to the tenor thereof. Go on to direct who, in conjunction with the consul or vice-consul, (if there be one,) shall ascertain the abatement of duties on the damaged goods stipulated in this article.

Article 9th allows the consuls of the most Christian King to arrest and imprison deserted captains, officers, mariners, seamen, and all others being part of a ship's crew. For which purpose they are to address themselves to the courts, judges, and officers competent, who are to aid in arresting the deserter, and to confine him in the prisons of the country. Say who are the competent courts, judges, and officers to whom he is to apply, and what prisons they shall use.

This clause confines the terms of imprisonment to three months. The French consuls represent that in many ports of the United States, no opportunity of re-conveying by a French ship occurs within that

term, and they ask a longer. Suppose it be referred to the Federal district judge on application by the French consul, and on his showing good cause, to prolong the term from time to time, not exceeding three months additional in the whole.

Article 12th. It is necessary to authorize some officer to execute the sentences of the consul, *not extending to life, limb or liberty* Will it be best to require the marshal residing at the port to do it, (and make it the duty, where none resides, to appoint a deputy residing there,) or to allow the consul to constitute some person of his nation an officer for the purpose? If it should be thought indifferent to us, it might be well to pay the French the compliment of asking their minister here which he would prefer, and it would shield us from complaints of delinquencies in the executing officer.

II. Article 12th. Say by what law the consul of the United States, residing in the French dominion, shall decide the cases whereof he has jurisdiction, viz.: by the same law by which the proper Federal court would decide the same case.

Direct appeals from consular sentences to the proper Federal court, and save defects of formality in proceedings, where the matter is substantially stated.

Article 4th. Declare what validity the authentication under the consular seal, of any instrument executed in foreign countries, shall have in the courts of the United States.

[Duties not prescribed in the Convention.]

To subsist shipwrecked or wandering seamen till an opportunity offers of sending them back to some port of the United States, and to oblige every master of an American vessel homeward bound, to receive and bring them back in a certain proportion; they working, if able.

Where a ship is sold in a foreign port, oblige the master to send back the crew, or furnish wherewithal to do it, on pain of an arrest by the consul on his ship, his goods, and his person, (if the laws of the land permit it,) until he does it.

Oblige all American masters (on pain of arrest, till compliance, of their vessel, cargo, or person, or such other pain as shall be thought effectual) on their arrival in any foreign port within the jurisdiction of a consul or vice-consul of the United States, to report to him or his agent in the port, their ship's name, and owners, burden, crew, cargo, and its owners, from what port of the United States they cleared, and at what ports they have touched. Also to report to the consul the cargo they take in, and the port or ports of destination, and to take his certificate that such report has been made, on like pain.

Allow certain fees to consuls where none are already allowed, for the same services, by the laws of the countries in which they reside.

Allow salaries not exceeding three thousand dollars to one consul in each of the Barbary States.

III. Where there are consuls of the United States residing in foreign countries, with which we have no convention, but whose governments indulge our consuls in the exercise of functions, extend the provisions of this bill, or such of them as such government permits, to such consuls of the United States residing with them.

Also where any consular convention shall hereafter be removed with the same, or entered into with any other nation, with stipulations corresponding to those provided for in this bill, extend the provisions of the bill respectively to the consuls on both sides.

Matters to be arranged between the Governments of England and United States. December 12th, 1791.

The discussions which are opening between Mr. Hammond and our government, have as yet looked towards no objects but those which depend on the treaty of peace. There are, however, other matters to be arranged between the two governments, some of which do not rest on that treaty. The following is a statement of the whole of them:

1st. The Western ports.

2d. The negroes carried away.

3d. The debt of their bank to Maryland, and perhaps Rhode Island.

4th. Goods taken from the inhabitants of Boston,

while the town was in their possession, and compensation promised.

5th. Prizes taken after the dates at which hostilities were to cease.

6th. Subsistence of prisoners.

7th. The Eastern boundary.

Which of these shall be taken into the present discussion?

Which of them shall be left to arrangement through the ordinary channels of our ministers, in order to avoid embarrassing the more important points with matters of less consequence?

On the subject of commerce shall Mr. Hammond be desired to produce his powers to treat, as is usual, before conferences are held on that subject?

Memorandum of Communications made to a Committee of the Senate on the Subject of the Diplomatic Nominations to Paris, London, and the Hague. January 4th, 1792.

The Secretary of State having yesterday received a note from Mr. Strong, as chairman of a committee of the Senate, asking a conference with him on the subject of the late diplomatic nominations to Paris, London, and the Hague, he met them in the Senate chamber in the evening of the same day, and stated to them in substance what follows:

That he should on all occasions be ready to give to the Senate, or to any other branch of the govern-

ment, whatever information might properly be communicated, and might be necessary to enable them to proceed in the line of their respective offices: that on the present occasion, particularly, *as the Senate had to decide on the fitness of certain persons to act for the United States at certain courts, they would be the better enabled to decide, if they were informed of the state of our affairs at those courts, and what we had to do there:* that when the bill for providing the means of intercourse with foreign nations was before the legislature, he had met the committees of each House, and had given them the ideas of the Executive as to the courts with which we should keep diplomatic characters, and the grades we should employ: that there were two principles, which decided on the courts, viz., 1, *vicinage;* and 2, *commerce:* that the first operated in the cases of London and Madrid, and the second in the same cases, and also in those of France and Portugal; perhaps, too, of Holland: that as to all other countries, our commerce and connections were too unimportant to call for the exchange of diplomatic residents: that he thought we should adopt the lowest grades admissible, to wit, at Paris that of minister plenipotentiary, because that grade was already established there; the same at London, because of the pride of that court, and perhaps the sense of our country and its interests, would require a sort of equality of treatment to be observed towards them; and for Spain and Lisbon, that of chargé des affaires only;

the Hague uncertain: that at the moment of this bill, there was a complete vacancy of appointments between us and France and England, by the accidental translations of the ministers of France and the United States to other offices, and none as yet appointed to, or from England: that in this state of things, the legislature had provided for the grade of minister plenipotentiary, as one that was to be continued, and showed they had their eye on that grade only, and that of chargé des affaires; and, that by the sum allowed, they approved of the views then communicated: that circumstances had obliged us to change the grade at Lisbon to minister resident, and this of course would force a change at Madrid and the Hague, as had been communicated at the time to the Senate; but that no change was made in the salary, that of resident being made the same as had been established for a chargé des affaires. ——He then added, the new circumstances which had supervened on those general ones in favor of these establishments, to wit, with Paris, the proposal on their part to make a liberal treaty, the present situation of their colonies which might lead to a freer commerce with them, and the arrival of a minister plenipotentiary here; with London, their sending a minister here in consequence of notorious and repeated applications from us, the powers given him to arrange the differences which had arisen about the execution of the treaty, to wit, the posts, negroes, etc., which was now in train, and perhaps

some authority to talk on the subject of arrangements of commerce, and also the circumstances which had induced that minister to produce his commission; with Madrid, the communication from the king, that he was ready to resume the negotiations on the navigation of the Mississippi, and to arrange that, and a port of deposit on the most friendly footing, if we would send a proper person to Madrid for that purpose: he explained the idea of joining one of the ministers in Europe to Mr. Carmichael for that purpose; with Lisbon, that we had to try to obtain a right of sending flour there, and mentioned Del Pinta's former favorable opinion on that subject: he stated, also, the interesting situation of Brazil, and the dispositions of the court of Portugal with respect to our warfare with the Algerines; with Holland, the negotiating loans for the transfer of the whole French debt there, an operation which must be of some years, because there is but a given sum of new money to be lent to any one nation. He then particularly recapitulated the circumstances which justified the President's having continued the grade of minister plenipotentiary; but added, that whenever the biennial bill should come on, each House would have a constitutional right to review the establishment again, and whenever it should appear that either House thought any part of it might be reduced, on giving to the executive time to avail themselves of the first convenient occasion to reduce it, the

executive could not but do it; but that it would be extremely injurious now, or at any other time, to do it so abruptly as to occasion the recall of ministers, or unfriendly sensations in any of those countries with which our commerce is interesting.

That a circumstance, recalled to the recollection of the Secretary of State this morning, induced him immediately to add to the preceding verbal communication a letter addressed to Mr. Strong in the following words:—

PHILADELPHIA, January 4th, 1792.

"SIR,—I am just now made to recollect a mistake in one of the answers I gave last night in the committee of the Senate, and which, therefore, I beg leave to correct. After calling to their minds the footing on which Mr. Morris had left matters at the court of London, and informing them of what had passed between the British minister here and myself, I was asked whether this was all that had taken place? Whether there had been no other or further engagement? I paused, you may remember, to recollect. I knew nothing more had passed on the other side the water, because Mr. Morris' powers there had been determined, and I endeavored to recollect whether anything else had passed with Mr. Hammond and myself. I answered that this was all, and added in proof, that I was sure nothing had passed between the President and Mr. Hammond, personally, and so I might safely say this

was all. It escaped me that there had been an informal agent here (Colonel Beckwith), and so informal that it was thought proper that I should never speak on business with him, and that on a particular occasion, the question having been asked whether if a British minister should be sent here, we would send one in exchange? It was said, through another channel, that one would doubtless be sent. Having only been present when it was concluded to give the answer, and not having been myself the person who communicated it, nor having otherwise had any conversation with Colonel Beckwith on the subject, it absolutely escaped my recollection at the moment the committee put the question, and I now correct the error I committed in my answer, with the same good faith with which I committed the error in the first moment. Permit me to ask the favor of you, Sir, to communicate this to the other members of the committee, and to consider this as a part of the information I have had the honor of giving the committee on the subject.

I am with the most perfect esteem, Sir, your most obedient and most humble servant.

Which letter, with the preceding statement, contains the substance of what the Secretary of State has communicated to the committee, as far as his memory enables him to recollect.

Considerations on the Subjects of Ransom, and Peace with the Algerines. April 1st, 1792.

I. The ransom of our captive citizens, being fourteen in number.

For facts on this subject refer to the Reports of December 28th, 1790, on the same ransom, and on the Mediterranean trade, and to Mr. Short's letter of August 21st, 1791, sent to the Senate.

The probable cost will be one thousand five hundred dollars for the common men, and half as much more for officers: adding presents, duties, and other expenses, it will be little short of forty thousand dollars. This must be ready money, and consequently requires a joint, but secret vote of both Houses. An agent must be sent for the purpose.

II. Peace, how best to be obtained?

1st. By war; that is to say, by constant cruises in the Mediterranean. This proved practicable by the experiment of M. de Massiac, by the Portuguese cruise. The co-operation of Portugal, Naples, Genoa, and Malta, could possibly be obtained, but the expense would be considerable. Vessels mounting one hundred guns in the whole, would probably be wanting on our part. These would cost in the outset four hundred thousand dollars, and annually afterwards one hundred and twenty-five thousand dollars. It may be doubted if this expense could be met during the present Indian war. If it could, it is the most honorable and efficacious way of having peace.

2d. By paying a gross sum for a peace of fifty years. Respectable opinions vary from three hundred thousand to one million dollars, as to the first cost. Then are to follow frequent occasional presents; and with all this, the peace will not be respected unless we appear able to enforce it; and if able to enforce it, why not rely on that solely? The same question arises here, to wit: are we able to meet this expense at present?

3. By tribute annually.

The Dutch, Danes, Swedes, and Venetians, pay about twenty-four thousand dollars a year. We might, perhaps, obtain it for something less. If for ten or fifteen thousand dollars, it might be eligible. And by a tariff for the ransom of the captives they shall take from us. If low, this might do for the present. The agent to be sent for the purpose of ransom might be authorized to treat; but should also make himself acquainted with their coast, harbor, vessels, manner of fighting, etc. On either of these plans a vote of the Senate will be requisite.

On the 1st or 2d the Representatives should be consulted, and perhaps on the 3d or 4th. It will be best to bring it on by a message from the President.

Notes of a Conversation with George Hammond. June 3d, 1792.

Having received Mr. Hammond's letter of June 2d, informing me that my letter of May 29th should be sent to his court for their instructions, I immediately went to his house. He was not at home. I wrote him a note, inviting him to come and dine with me alone, that we might confer together in a familiar way on the subject of our letters, and consider what was to be done. He was engaged, but said he would call on me any hour the next day. I invited him to take a solo dinner the next day. He accepted and came. After the cloth was taken off, and the servants retired, I introduced the conversation by adverting to that part of his letter wherein he disavowed any intentional deception, if he had been misinformed, and had misstated any facts, assuring him that I acquitted him of every suspicion of that kind: that he had been here too short a time to be acquainted with facts himself, or to know the best sources for getting at them: that I had found great difficulty myself in the investigation of facts, and with respect to the proceedings of the courts particularly, had been indebted to the circumstance of Congress being in session, so that I could apply to the members of the different States for information respecting their States. I told him that each party having now stated the matters between the two nations in the point of view in which they

appeared to each, had hoped that we might by the way of free conversation abridge what remained: that I expected we were to take for our basis, that the treaty was to be fully executed: that, on our part, we had pronounced our demands explicitly, to have the upper posts delivered up, and the negroes paid for: that they objected infractions on our part, which we denied: that we ought to proceed to investigate the facts on which we differed: that this was the country in which they could alone be investigated; and if it should be found we had *unjustifiably* broken the treaty, the case was of a nature to admit of a proper compromise.

He said that he believed the question had never been understood by his court;—admitted they had as yet heard only one side of it, and that from a party which entertained strong feelings against us (I think he said the Refugees): that the idea would be quite new to his court, of their having committed the first infraction, and of the proceedings on the subject of their debts here being on the ground of retaliation: that this gave the case a complexion so entirely new and different from what had been contemplated, that he should not be justified in taking a single step: that he should send my letter to the ministers—that they would be able to consider facts and dates, see if they had really been the first infractors, and say what ground they would take on this new state of the case: that the matter was now for the first time carried into mutual dis-

cussion: that the close of my letter contained specific propositions, to which they would of course give specific answers adapted to the new statement of things brought forward. I replied, that as to the fact of their committing the first infraction, it could not be questioned: confessed that I believe the ministers which signed the treaty, meant to execute it: that Lord Shelburne's plan was to produce a new coalescence by a liberal conduct towards us: that the ministry which succeeded thought the treaty too liberal, and wished to curtail its effect in the course of executing it; but that if every move and counter-move was to cross the Atlantic, it would be a long game indeed. He said, no: that he thought they could take their ultimate ground at once, on having before them a full view of the facts, and he thought it fortunate that Mr. Bord, from whom he got most of his information, and Lord Dorchester, would be on the spot to bring things to rights, and he imagined he could receive his instructions before November.

I told him that I apprehended that Lord Dorchester would not feel a disposition to promote conciliation, seeing himself marked personally as an infractor; and mentioned to him the opinions entertained here of the unfriendliness of Mr. Bord's mind towards us. He justified Mr. Bord. He had received information from their other consuls, and the factors of the merchants, who assured him that they could furnish proofs of the facts they com-

municated to him, and which he had advanced on their authority, and that he should now write to them to produce their authority. He admitted that the debt to British subjects might be considered as liquidated from the Potomac northward: that South Carolina was making a laudable effort to pay hers; and that the only important object now was, that of Virginia, amounting by his list to two millions sterling: that the attention of the British merchants from North to South was turned to the decision of the case of Jones and Walker, which he hoped would take place at the present session, and let them see what they had to depend on. I told him that I was sorry to learn that but two judges had arrived in Richmond, and that unless the third arrived they would not take it up. I desired him to observe that the question in that case related only to that description of debts which had been paid into the treasury: that without pretending to know with any accuracy what proportion of the whole debt of Virginia had been paid into the treasury, I believed it was a small one; but the case of Jones and Walker would be a precedent for those debts only: that as to the great residuary mass, there were precedents enough, as it appeared they were in a full course of recovery, and that there was no obstacle, real or apparent. He did not appear to have adverted to the distinction, and showed marks of satisfaction on understanding that the question was confined to the other portion of the

debts only. He thought that the collection, there being one under a hopeful way, would of itself change the ground on which our difference stands. He observed that the treaty was of itself so vague and inconsistent in many of its parts, as to require an explanatory convention. He instanced the two articles, one of which gave them the navigation of the Mississippi, and the other bounded them by a due west line from the Lake of the Woods, which being now understood to pass beyond the most northern sources of the Mississippi, intercepted all access to that river: that to reconcile these articles, that line should be so run as to give them access to the navigable waters of the Mississippi, and that it would even be for our interest to introduce a third power between us and the Spaniards. He asked my idea of the line from the Lake of the Woods, and of now settling it. I told him I knew of no objection to the settlement of it: that my idea of it was, that if it was an impassable line, as proposed in the treaty, it should be rendered passable by as small and unimportant an alteration as might be, which I thought would be to throw in a line running due north from the northernmost source of the Mississippi, till it should strike the western line from the Lake of the Woods: that the article giving them a navigation in the Mississippi did not relate at all to this northern boundary, but to the southern one, and to the secret article respecting that: that he knew that our Provisional Treaty was made seven

weeks before that with Spain: that at the date of ours, their ministers had still a hope of retaining Florida, in which case they were to come up to the thirty-second degree, and in which case also the navigation of the Mississippi would have been important; but that they had not been able, in event, to retain the country to which the navigation was to be an appendage. (It was evident to me that they had it in view to claim a slice on our northwestern quarter, that they may get into the Mississippi; indeed, I thought it presented as a sort of make-weight with the posts to compensate the great losses their citizens had sustained by the infractions charged on us.)

I had hinted that I had not been without a hope, that an early possession of the posts might have been given us as a commencement of full execution of the treaty.

He asked me if I had conceived that he was authorized to write to the Governor of Canada to deliver us the posts? I said I had. He smiled at that idea, and assured me he had by no means any such authority. I mentioned what I had understood to have passed between him and General Dickinson, which was related to me by Mr. Hawkins, to wit: that the posts might be delivered upon the assurance of the recovery of their debts in Virginia. He said, that if any such thing as that had dropped from him, it must have been merely as a private and unauthorized opinion, for that the opinion of his

court was, that the retention of the posts was but a short compensation for the losses which their citizens had sustained, and would sustain by the delay of their admission into our courts. (Putting together this expression and his frequent declarations that the face of the controversy was now so totally changed from what it was understood to be at his court, that no instructions of his could be applicable to it, I concluded that his court had entertained no thought of ever giving up the posts, and had framed their instructions to him on a totally different hypothesis.) He asked what we understood to be the boundary between us and the Indians? I told him he would see by recurring to my report on the North Western Territory, and by tracing the line there described on Hutchins' map. What did I understand to be our right in the Indian soil? 1st. A right of preëmption of their lands; that is to say, the sole and exclusive right of purchasing from them whenever they should be willing to sell. 2d. A right of regulating the commerce between them and the whites. Did I suppose that the right of preëmption prohibited any individual of another nation from purchasing lands which the Indians should be willing to sell? Certainly. We consider it as established by the usage of different nations into a kind of *Jus gentium* for America, that a white nation settling down and declaring that such and such are their limits, makes an invasion of those limits by any other white nation an

act of war, but gives no right of soil against the native possessors. Did I think the right of regulating the commerce went to prohibit the British traders from coming into the Indian territory? That has been the idea. He said this would be hard on the Indians. I observed that whichever way the principle was established, it would work equally on both sides the line. I did not know whether we would gain or lose by mutual admission or exclusion. He said they apprehended our intention was to exterminate the Indians and take the lands. I assured him that, on the contrary, our system was to protect them, even against our own citizens: that we wish to get lines established with all of them, and have no views even of purchasing any more lands of them for a long time. We consider them as a maze chaussee, or police, for scouring the woods on our borders, and preventing their being a cover for rovers and robbers.

He wished the treaty had established an independent nation between us to keep us apart. He was under great apprehensions that it would become a matter of bidding as it were, between the British and us, who should have the greatest army there, and who should have the greatest force on the lakes: that we, holding posts on this side the water, and they on the other, soldiers looking constantly at one another, would get into broils and commit the two nations in war. I told him we might perhaps regulate by agreement the force to be kept on each side.

He asked what was our view in keeping a force there: that he apprehended if we had these posts, we should be able to hinder vessels from passing. I answered that I did not know whether the position of the present posts was such as that no vessel could pass but within their gun-shot; but that each party must have a plenty of such positions on the opposite sides, exclusively of the present posts: that our view in possessing these posts was to awe the Indians, to participate in the fur trade, to protect that trade. Protect it against whom? Against the Indians. He asked what I imagined to be their motives for keeping the posts? To influence the Indians, to keep off a rival nation and the appearance of having a rival nation, to monopolize the fur trade. He said he was not afraid of rivals if the traders would have fair play. He thought it would be better that neither party should have any military posts, but only trading houses. I told him that the idea of having no military posts on either side was new to me: that it had never been mentioned among the members of the executive: that therefore I could only speak for myself and say that, *prima facie*, it accorded well with two favorite ideas of mine, of leaving commerce free, and never keeping an unnecessary soldier; but when he spoke of having no military posts on either side, there might be difficulty in fixing the distance of the nearest posts. He said that though his opinion on this subject was only a private one, and he under-

stood mine to be so also, yet he was much pleased that we two seemed to think nearly alike, as it might lead to something. He said that their principal object in the fur trade was the consumption of the goods they gave in exchange for the furs. I answered that whether the trade was carried on by English or Americans, it would be with English goods, and the route would be, not through Canada, but by the shorter channels of the Hudson or Potomac.

It is not pretended that the above is in the exact order, or the exact words of the conversation. This was often desultory, and I can only answer for having given generally the expression, and always the substance of what passed.

Extempore Thoughts and Doubts, on very Superficially Running over the Bankrupt Bill.

The British statute excepts expressly farmers, graziers, drovers, as such, though they buy to sell again. This bill has no exception.

The British adjudications exempt the buyers and sellers of bank-stock, government papers, etc. What feelings guided the draughtsman in adhering to his original in this case, and departing from it in the other?

The British courts adjudge that any artists may be bankrupts if the materials of their art are bought, such as shoemakers, blacksmiths, carpenters, etc.

Will the body of our artists desire to be brought within the vortex of this law? It will follow as a consequence that the master who has an artist of this kind in his family, whether hired, indentured, or a slave, to serve the purposes of his farm or family, but who may at leisure times do something for his neighbors also, may be a bankrupt.

The British law makes a departure from the realm, *i. e.* out of the mediation of British law, an act of bankruptcy. This bill makes a departure from the *State wherein he resides*, (though into a neighboring one where the laws of the United States run equally,) an act of bankruptcy.

The commissioners may open houses, break open doors, chests, etc. Are we really ripe for this? Is that spirit of independence and sovereignty which a man feels in his own house, and which Englishmen felt when they denominated their houses their castles, to be absolutely subdued? and is it expedient that it should be subdued?

The lands of the bankrupt are to be taken, sold, etc. Is not this a predominant question between the general and State legislatures?

Is commerce so much the basis of the existence of the United States as to call for a bankrupt law? On the contrary, are we not almost merely agricultural? Should not all laws be made with a view essentially to the poor husbandmen? When laws are wanting for particular descriptions of other callings, should not the husbandmen be carefully

excused from their operation, and preserved under that of the general system only; which general system is fitted to the condition of husbandmen?

Heads of Conversation with Mr. Hammond.

That I communicated to the President his information of the consent of the Western Indians to hold conferences of peace with us, in the presence of Governor Simcoe:—took care to apprize him of the informality of the conversation;—that it was accidental;—private;—the present to be considered equally so:—unnecessary to note to him that nothing like a mediation was suggested. 1st. Because so informal a conversation could not include so formal a thing as a mediation. 2d. Because, an established principle of public law among the white nations of America, that while the Indians included within their limits retain all other national rights, no other white nations can become their patrons, protectors, or mediators, nor in any shape intermeddle between them and those within whose limits they are. That Great Britain would not propose an example which would authorize us to cross our boundary, and take under our protection the Indians within her limits. 3d. Because, should the treaty prove ineffectual, it would singularly commit the friendship of the two nations.

That the idea of Governor Simcoe's attendance was presented only as a thing desired by the Indians:

that the consequences of this had been considered. It is not necessary in order to effect a peace. Our views so just, so moderate, that we have no fear of effecting peace if left to ourselves. If it cannot be effected, it is much better that nobody on the part of England should have been present;—for however our government is persuaded of the sincerity of your assurances that you have not excited the Indians, yet our citizens in general are not so. It will be impossible to persuade them the negotiations were not defeated by British agents: that, therefore, we do not pretend to make the exclusion of Governor Simcoe a *sine qua non*, provided he be there as a spectator, not as a *party*, yet we should consider his declining to attend, either by himself or any other person, as an instance of their friendship, and as an evidence of it particularly calculated to make due impression on the minds of our citizens. That the place fixed on by the Indians is extremely inconvenient to us, because of the distance and difficulty of transporting provisions there. Three hundred thousand rations will probably be requisite, if three thousand Indians attend. That if we had time, we would have proposed some other place, for example the Maumee towns; but there not being time, we shall do our best to make provision. 1st. We shall collect and carry as much as possible through the Miami channel. 2d. We shall hope for their permission to have purchases made in Upper Canada, and brought along the lake.

Instructions to Andrew Michaud for Exploring the Western Boundary. January, 1793.

Sundry persons having subscribed certain sums of money for your encouragement to explore the country along the Missouri, and thence westwardly to the Pacific Ocean, having submitted the plan of the enterprise to the directors of the American Philosophical Society, and the society having accepted of the trust, they proceed to give you the following instructions:

They observe to you that the chief objects of your journey are to find the shortest and most convenient route of communication between the United States and the Pacific Ocean, within the temperate latitudes, and to learn such particulars as can be obtained of the country through which it passes, its productions, inhabitants, and other interesting circumstances. As a channel of communication between these States and the Pacific Ocean, the Missouri, so far as it extends, presents itself under circumstances of unquestioned preference. It has, therefore, been declared as a fundamental object of the subscription (not to be dispensed with) that this river shall be considered and explored as a part of the communication sought for. To the neighborhood of this river, therefore, that is to say, to the town of Kaskaskia, the society will procure you a conveyance in company with the Indians of that town now in Philadelphia.

From thence you will cross the Mississippi and pass by land to the nearest part of the Missouri above the Spanish settlements, that you may avoid the risk of being stopped.

You will then pursue such of the largest streams of that river as shall lead by the shortest way and the lowest latitudes to the Pacific Ocean. When, pursuing those streams, you shall find yourself at the point from whence you may get by the shortest and most convenient route to some principal river of the Pacific Ocean, you are to proceed to such river, and pursue its course to the ocean. It would seem by the latest maps as if a river called Oregon, interlocked with the Missouri for a considerable distance, and entered the Pacific Ocean not far southward of Nootka Sound. But the society are aware that these maps are not to be trusted so far as to be the ground of any positive instruction to you. They therefore only mention the fact, leaving to yourself to verify it, or to follow such other as you shall find to be the real truth.

You will in the course of your journey, take notice of the country you pass through, its general face, soil, rivers, mountains, its productions—animal, vegetable, and mineral—so far as they may be new to us, and may also be useful or very curious; the latitudes of places or material for calculating it by such simple methods as your situation may admit you to practice, the names, numbers, and dwellings of the inhabitants, and such particulars as you can

learn of their history, connection with each other, languages, manners, state of society, and of the arts and commerce among them.

Under the head of animal history, that of the mammoth is particularly recommended to your inquiries, as it is also to learn whether the Lama or Paca of Peru, is found in those parts of this continent, or how far north they come.

The method of preserving your observations is left to yourself, according to the means which shall be in your power. It is only suggested that the noting them on the skin might be best for such as may be the most important, and that further details may be committed to the bark of the paper-birch, a substance which may not excite suspicions among the Indians, and little liable to injury from wet or other common accidents. By the means of the same substance you may perhaps find opportunities, from time to time, of communicating to the society information of your progress, and of the particulars you shall have noted.

When you shall have reached the Pacific Ocean, if you find yourself within convenient distance of any settlement of Europeans, go to them, commit to writing a narrative of your journey and observations, and take the best measure you can for conveying it thence to the society by sea.

Return by the same, or some other route, as you shall think likely to fulfil with most satisfaction and certainty the objects of your mission, furnish-

ing yourself with the best proofs the nature of the case will admit of the reality and extent of your progress. Whether this shall be by certificates from Europeans settled on the western coast of America, or by what other means, must depend on circumstances. Ignorance of the country through which you are to pass, and confidence in your judgment, zeal, and discretion, prevent the society from attempting more minute instructions, and even from exacting rigorous observance of those already given, except, indeed, what is the first of all objects, that you seek for and pursue that route which shall form the shortest and most convenient communication between the higher parts of the Missouri and the Pacific Ocean.

It is strongly recommended to you to expose yourself in no case to unnecessary dangers, whether such as might affect your health or your personal safety, and to consider this not merely as your personal concern, but as the injunction of science in general, which expects its enlargement from your inquiries, and of the inhabitants of the United States in particular, to whom your report will open new fields and subjects of commerce, intercourse, and observation.

If you reach the Pacific Ocean and return, the society assign to you all the benefits of the subscription before mentioned. If you reach the waters only which run into that ocean, the society reserve to themselves the apportionment of the reward

according to the conditions expressed in the subscription. If you do not reach even those waters they refuse all reward, and reclaim the money you may have received here under the subscription.

They will expect you to return to the city of Philadelphia to give in to them a full narrative of your journey and observations, and to answer the inquiries they shall make of you, still reserving to yourself the benefit arising from the publication of such parts of them as are in the said subscription reserved to you.

Memorandum relative to Commissioners for laying off the Federal City. March 11th, 1793.

Question 1st.—What sacrifice may be made to retain Mr. Johnson in the office of commissioner for the federal territory?

Answer.—For such an object, it is worth while to give up the plan of an allowance per diem; to give, instead of that, a sum in gross, and to extend that sum to five hundred dollars per annum, and expenses; the latter to be rendered in account.

If Mr. Johnson persists in resigning, as it is evident Dr. Stewart will not continue even for the above allowance, and Mr. Carroll does not appear to make any conditions, the President will be free as to Mr. Carroll and two new associates, to adhere to the allowance per diem already proposed, or to substitute a sum in gross.

Question 2d.—May new commissioners be chosen in the town?

Answer.—It is strongly desirable that the commissioners should not be of the town, nor interested in it; and this objection is thought a counterpoise for a sensible difference in talents; but if persons of adequate talents and qualifications cannot be found in the country, it will be better to take them from the town, than to appoint men of inadequate talents from the country.

Question 3d.—How compensate them?

Answer.—If they come from the country, the per diem allowance is thought best; if from the town, a sum in gross will be best, and this might be as far as three hundred dollars a year, and no allowance for expenses. If partly from the town, and partly from the country, then three hundred dollars a year to the former, and the same, with allowance of expenses, to the latter.

Mr. Madison, Mr. Randolph and Thomas Jefferson having consulted together on the preceding questions, with some shades of difference of opinion in the beginning, concurred ultimately and unanimously in the above answers.

Note given to the President relative to Genet.

Mr. Genet's declaration to the President at his reception, that France did not wish to engage the United States in the present war by the clause of

guarantee, but left her free to pursue her own happiness in peace, has been repeated to myself in conversation, and to others, and even in a public answer, so as to place it beyond question.

Some days after the reception of Mr. Genet (which was May 17th), I went to his house on business. The Attorney General went with me to pay his first visit. After he withdrew, Mr. Genet told me Mr. Fornant had delivered him my letter of May 15th on the four memorials of Mr. Hammond. He said something first of the case of the Grange, and then of the vessels armed at Charleston. He said that on his arrival there, he was surrounded suddenly by Frenchmen full of zeal for their country, pressing for authority to arm with their own means for its assistance: that they would fit out their own vessels, provide everything, man them, and only ask a commission from him: that he asked the opinion of Governor Moultrie on the subject, who said he knew no law to the contrary, but begged that whatever was to be done, might be done without consulting him: that he must know nothing of it, etc.: that hereupon he gave commission to the vessels: that he was of opinion that he was justified, not only by the opinions at Charleston, but by our treaties. I told him the President had taken full advice on the subject, had very maturely considered it, and had come to the decision expressed in my letter. He said he hoped the President had not so absolutely decided it, but that he would hear what was to be

said against it. I told him I had no doubt but that the President, out of respect to him and his country, would receive whatever he should have to urge on the subject, and would reconsider it with candor. He said he would make it his business to write me a letter on the subject: that he thought the arming the privateers was justifiable; but that if the President should finally decide otherwise (though he could not think it would be right), yet he must submit; for that assuredly his instructions were to do whatever would be agreeable to us. He showed, indeed, by his countenance, his manner, and words, that such an acquiescence would be with reluctance; but I was and am persuaded he then meant it.

Mr. Genet called at my office on Tuesday sennight, or fortnight, say (July 16th or 9th), but I think it was Tuesday sennight; and knew it was on a Tuesday, because he went from thence to the President's. He was summing up to me the strength of the French naval force now arrived. I took that occasion to observe to him, that having such great means in his hands, I thought he ought not to hesitate in abandoning to the orders of the government the little pickeroons which had been armed here unauthorized by them, and which occasioned so much embarrassment and uneasiness: that certainly their good dispositions must be worth more than the trifling services these little vessels could render. He immediately declared, that having

such a force in his hands, he had abandoned every idea of further armament in our ports: that these small objects were now beneath his notice, and he had accordingly written to the consuls to stop everything further of that kind; but that as to those which had been fitted out before, their honor would not permit them to give them up, but he wished an oblivion of everything which had passed, and that in future the measure so disagreeable to the government should not be pursued, though he thought it clearly justifiable by the treaty. I told him the government was of a different opinion: that both parties indeed had equal right to construe the treaty: that, consequently, he had done his duty in remonstrating against our construction, but that since the government remained finally persuaded of the solidity of its own construction, and had a right to act accordingly within their own limits, it was now his duty, as a diplomatic man, to state the matter to his government, to ask and await their orders, and in the meantime to acquiesce, and by no means to proceed in opposition within our limits.

It was at the same time he informed me that he had sent out the Little Democrat, July 26th, 1793, to obtain intelligence of the state of the coast, and whether it was safe for the fleet to proceed round from Norfolk to New York.

Rules for the Regulation of our Conduct towards the Belligerent Powers recommended to the President for his Adoption.

1st. The original arming and equipping of vessels in the ports of the United States by any of the belligerent powers for military service, offensive or defensive, is deemed unlawful.

2d. Equipments of merchant vessels by either of the belligerent parties in the ports of the United States, purely for the accommodation of them as such, is deemed lawful.

3d. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which, if done to other vessels, would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize of the subjects, people or property of France, coming with their prizes into the ports of the United States, pursuant to the seventeenth article of our treaty of amity and commerce with France.

4th. Equipments in the ports of the United States by any of the parties at war with France, of vessels fitted for merchandise and war, whether with or without commissions, which are doubtful in their nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize, etc.

5th. Equipments of any of the vessels of France

in the ports of the United States, which are doubtful in their nature, as being applicable to commerce or war, are deemed lawful.

6th. Equipments of every kind in the ports of the United States of privateers of the powers at war with France, are deemed unlawful.

7th. Equipments of vessels in the ports of the United States which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the eighteenth article of our treaty with France, the sixteenth of our treaty with the United Netherlands, the ninth of our treaty with Prussia, and except those mentioned in the nineteenth article of our treaty with France, the seventeenth of our treaty with the United Netherlands, the eighteenth of our treaty with Prussia.

8th. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist therein their own subjects, or aliens not being inhabitants of the United States, except privateers of the powers at war with France, and except those vessels which shall have made prize, etc.

August 3, 1793. The foregoing rules having been considered by us at several meetings, and being now unanimously approved, they are submitted to the President of the United States.

TH: JEFFERSON. ALEXANDER HAMILTON.
H. KNOX. EDW: RANDOLPH.

Opinion relative to the Propriety of Convening the Legislature at an earlier period than that fixed by law. August 4th, 1793.

The President having been pleased to propose for consideration, the question whether it be proper or not to convene the legislature at an earlier period than that at which it is to meet by law, and at what time? I am of opinion it will be proper.

1st. Because the protection of our southern frontiers seems to render indispensable a war with the Creeks, which cannot be declared nor provided for but by the legislature, nor prudently undertaken by the Executive on account of the consequences it may involve with respect to Spain.

2d. Because several legislative provisions are wanting to enable the government to steer steadily through the difficulties daily produced by the war of Europe, and to prevent our being involved in it by the incidents and perplexities to which it is constantly giving birth.

3d. Because, should we be involved in it, which is every day possible, however anxiously we endeavor to avoid it, the legislature, meeting a month earlier, will place them a month forwarder in their provisions for that state of things.

I think the first Monday in November would be a proper time for convening them, because, while it would gain a month in making provisions to prevent or prepare for war, it leaves such a space of time for

their assembling as will avoid exciting alarm either at home or abroad.

Communication Relative to our French Relations. August 22d, 1793.

Thomas Jefferson has the honor to enclose to the President the letter of the National Assembly to him, of December 22d, 1792. Its most distinct object seems to have been to thank the United States for their measures to St. Domingo. It glances blindly, however, at commercial arrangements, and on the 19th of February, the same Assembly passed the decree putting our commerce in their dominions on the footing of natives, and directing their executive council to treat with us on the subject. On this the following questions arise:

1st. Would the President choose to answer the letter, acknowledging its receipt, thanking them in turn for the favors to our commerce, and promising to consult the constitutional powers (the Senate) on the subject of the treaty proposed?

2d. Would he rather choose to make no reply to the letter, but that Mr. Morris be instructed to negotiate a renewal of Mr. Genet's powers to treat, to his successor?

3d. Or would he choose that nothing be said on the subject to anybody?

If the President would in his judgment be for a

treaty on the principles of the decree, or any modification of them, the 1st or 2d measure will be well to be adopted.

If he is against a treaty on those principles or any modification of them, the 3d measure seems to be the proper one.

Explanation of the Origin of the Principle that "Free bottoms make free goods." December 20th, 1793.

A doubt being entertained whether the use of the word *modern* as applied to the *law of nations* in the President's proclamation, be not inconsistent with ground afterwards taken in a letter to Genet, I will state the matter while it is fresh in my mind,—beginning it from an early period.

It cannot be denied that according to the general law of nations, the goods of an enemy are lawful prize in the bottom of a friend, and the goods of a friend privileged in the bottom of an enemy; or in other words, that *the goods follow the owner*. The inconvenience of this principle in subjecting neutral vessels to vexatious searches at sea, has for more than a century rendered it usual for nations to substitute a *conventional* principle *that the goods shall follow the bottom*, instead of the *natural* one before mentioned. France has done it in all her treaties; so I believe had Spain, before the American Revolution. Britain had not done it. When that war had involved those powers, Russia, foreseeing

that her commerce would be much harassed by the British ships, engaged Denmark, Sweden, and Portugal to arm, and to declare that the conventional principle should be observed by the powers at war, towards neutrals, and that they would make common cause against the party who should violate it; declaring expressly, at the same time, that that convention should be in force only during the war then existing. Holland acceded to the convention, and Britain instantly attacked her. But the other neutral powers did not think proper to comply with their stipulation of making common cause. France declared at once that she would conform to the conventional principle. This in fact imposed no new obligation on her, for she was already bound by her treaties with all those powers to observe that principle. Spain made the same declaration. Congress gave similar orders to their vessels; but Congress afterwards gave instructions to their ministers abroad not to engage them in any future combination of powers for the general enforcement of the conventional principle that goods should follow the bottom, as this might at some time or other engage them in a war for other nations; but to introduce the principle separately with every nation by the treaties they were authorized to make with each. It had been already done with France and Holland, and it was afterwards done with Prussia, and made a regular part in every treaty they proposed to others. After the war, Great Britain

established it between herself and France. When she engaged in the present war with France, it was thought extremely desirable for us to get this principle admitted by her, and hoping that as she had acceded to it in one instance, she might be induced to admit it as a principle now settled by the common consent of nations, (for every nation, belligerent or neutral, had stipulated it on one or more occasions,) that she might be induced to consider it as now become a *conventional* law of nations, I proposed to insert the word *modern* in the proclamation, to open upon her the idea that we should require the acquiescence in that principle as the condition of our remaining in peace. It was thought desirable by the other gentlemen; but having no expectation of any effect from it, they acquiesced in the insertion of the word, merely to gratify me. I had another view, which I did not mention to them, because I apprehended it would occasion the loss of the word.

By the ancient law of nations, *e. g.* in the time of the Romans, the furnishing a limited aid of troops, though stipulated, was deemed a cause of war. In latter times, it is admitted not to be a cause of war. This is one of the improvements in the law of nations. I thought we might conclude, by parity of reasoning, that the guaranteeing a limited portion of territory, in a stipulated case, might not, by the modern law of nations, be a cause of war. I therefore meant by the introduction of that word, to lay the foundation of the execution of our guar-

antee, by way of negotiation with England. The word was, therefore, introduced, and a strong letter was written to Mr. Pinckney to observe to Great Britain that we were bound by our treaties with the other belligerent powers to observe certain principles during this war: that we were willing to observe the same principles towards her; and indeed, that we considered it as essential to proceed by the same rule to all, and to propose to her to select those articles concerning our conduct in a case of our neutrality from any one of our treaties which she pleased; or that we would take those from her own treaty with France, and make a temporary convention of them for the term of the present war; and he was instructed to press this strongly. I told Genet that we had done this; but instead of giving us time to work our principles into effect by negotiation, he immediately took occasion in a letter, to threaten that if we did not resent the conduct of the British in taking French property in American bottoms, and protect their goods by *effectual measures* (meaning by arms), he would give direction that the principle of our treaty of goods following the bottom, should be disregarded. He was, at the same time, in the habit of keeping our goods taken in British bottoms; so that they were to take the gaining alternative of each principle, and give us the losing one. It became necessary to oppose this in the answer to his letter, and it was impossible to do it soundly,

but by placing it on its true ground, to wit: that the law of nations established as a general rule that *goods should follow the owner*, and that the making them *follow the vessel* was an exception depending on special conventions only in those cases where the convention had been made: that the exception had been established by us in our treaties with France, Holland and Prussia, and that we should endeavor to extend it to England, Spain, and other powers; but that till it was done, we had no right to make war for the enforcement of it. He thus obliged us to abandon in the first moment the ground we were endeavoring to gain, that is to say, his ground against England and Spain, and to take the very ground of England and Spain against him. This was my private reason for proposing the term *modern* in the proclamation; that it might reserve us a ground to obtain the very things he wanted. But the world, who knew nothing of these private reasons, were to understand by the expression the *modern law of nations*, that law with all the improvements and mollifications of it which an advancement of civilization in *modern* times had introduced. It does not mean strictly anything which is not a part of the *law of nations* in *modern* times, and therefore could not be inconsistent with the ground taken in the letter to Genet, which was that of the *law of nations*, and by no means could be equivalent to a declaration by the President of the specific principle, that *goods should follow the bottom.*

An Account of the Capitol in Virginia.

The Capitol in the city of Richmond, in Virginia, is the model of the Temples of Erectheus at Athens, of Balbec, and of the Maison quarrée of Nismes. All of which are nearly of the same form and proportions, and are considered as the most perfect examples of cubic architecture, as the Pantheon of Rome is of the spherical. Their dimensions not being sufficient for the purposes of the capitol, they were enlarged, but their proportions rigorously observed. The capitol is of brick, one hundred thirty-four feet long, seventy feet wide, and forty-five feet high, exclusive of the basement. Twenty-eight feet of its length is occupied by a portico of the whole breadth of the house, showing six columns in front, and two intercolonnations in flank. It is of a single order, which is Ionic; its columns four feet two inches diameter, and their entablature running round the whole building. The portico is crowned by a pediment, the height of which is two ninths of its span.

Within the body of the building, which is one hundred and six feet long, are two tiers of rooms twenty-one feet high each. In the lower, at one end, is the room in which the Supreme Court sits, thirty feet by sixty-four feet with a vestibule fourteen feet by twenty-two feet, and an office for their clerk, fourteen feet by thirteen feet. In the other end is the room for the House of Delegates, thirty

feet by sixty-four feet, with a lobby fourteen feet by thirty-six feet. In the middle is a room thirty-six feet square, of the whole height of the building, and receiving its light from above. In the centre of this room is a marble statue of General Washington, made at Paris, by Houdon, who came over to Virginia for the express purpose of taking his form. The statue is made accurately of the size of life. A peristile of columns in the same room, six feet from the wall, and twenty-two and a half feet high with their entablature, support a corridor above, serving as a communication for all the upper apartments, the stairs landing in it. In the upper tier is a Senate chamber, thirty feet square, an office for their clerk, five rooms for committees and juries, an office for the clerk of the House of Delegates, a chamber for the Governor and Council, and a room for their clerk. In the basement of the building are the Land Office, Auditor's office, and Treasury.

The drawings of the façade and other elevations, were done by Clarissault, one of the most correct architects of France, and author of the Antiquities of Nismes, among which was the Maison quarrée. The model in stucco was made under his direction, by an artist who had been employed many years in Greece, by the Count de Choiseul, ambassador of France at Constantinople, in making models of the most celebrated remains of ancient architecture in that country.

To the Speaker and House of Delegates of the Commonwealth of Virginia, being a Protest against interference of Judiciary between Representative and Constituent.—1797.

The petition of the subscribers, inhabitants of the counties of Amherst, Albemarle, Fluvanna, and Goochland, sheweth:

That by the Constitution of this State, established from its earliest settlement, the people thereof have professed the right of being governed by laws to which they have consented by representatives chosen by themselves immediately: that in order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was a part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the co-ordinate branches, Judiciary and Executive; and that their communications with their constituents should of right, as of duty also, be free, full, and unawed by any: that so necessary has this intercourse been deemed in the country from which they derive principally their descent and laws, that the correspondence between the representative and constituent is privileged there to pass free of expense through the channel of the public post, and that the proceedings of the legislature have been known to be arrested and suspended at times

until the representatives could go home to their several counties and confer with their constituents.

That when, at the epoch of Independence, the Constitution was formed under which we are now governed as a commonwealth, so high were the principles of representative government esteemed, that the legislature was made to consist of two branches, both of them chosen immediately by the citizens; and that general system of laws was continued which protected the relations between the representative and constituent, and guarded the functions of the former from the control of the judiciary and executive branches.

That when circumstances required that the ancient confederation of this with the sister States, for the government of their common concerns, should be improved into a more regular and effective form of general government, the same representative principle was preserved in the new legislature, one branch of which was to be chosen directly by the citizens of each State, and the laws and principles remained unaltered which privilege the representative functions, whether to be exercised in the State or General Government, against the cognizance and notice of the co-ordinate branches, executive and judiciary; and for its safe and convenient exercise, the inter-communication of the representative and constituent has been sanctioned and provided for through the channel of the public post, at the public expense.

That at the general partition of this commonwealth into districts, each of which was to choose a representative to Congress, the counties of Amherst, Albemarle, Fluvanna, and Goochland, were laid off into one district; that at the elections held for the said district, in the month of April, in the years 1795 and 1797, the electors thereof made choice of Samuel Jordan Cabell, of the county of Amherst, to be their representative in the legislature of the General Government; that the said Samuel Jordan Cabell accepted the office, repaired at the due periods to the legislature of the General Government, exercised his functions there as became a worthy member, and as a good and dutiful representative was in the habit of corresponding with many of his constituents, and communicating to us, by way of letter, information of the public proceedings, of asking and receiving our opinions and advice and of contributing, as far as might be with right, to preserve the transactions of the General Government in unison with the principles and sentiments of his constituents: that while the said Samuel J. Cabell was in the exercise of his functions as a representative from this district, and was in the course of that correspondence which his duty and the will of his constituents imposed on him, the right of thus communicating with them, deemed sacred under all the forms in which our government has hitherto existed, never questioned or infringed even by royal judges or governors, was openly and

directly violated at a Circuit Court of the General Government, held at the city of Richmond, for the district of Virginia, in the month of May of this present year, 1790: that at the said court, A, B, etc., some of whom were foreigners, having been called upon to serve in the office of grand jurors before the said court, were sworn to the duties of said office in the usual forms of the law, the known limits of which duties are to make presentment of those acts of individuals which the laws have declared to be crimes or misdemeanors: that departing out of the legal limits of their said office, and availing themselves of the sanction of its cover, wickedly and contrary to their fidelity to destroy the rights of the people of this commonwealth, and the fundamental principles of representative government, they made a presentment of the act of the said Samuel J. Cabell, in writing letters to his constituents in the following words, to wit: "We, of the grand jury of the United States, for the district of Virginia, present as a real evil, the circular letters of several members of the late Congress, and particularly letters with the signature of Samuel J. Cabell, endeavoring, at a time of real public danger, to disseminate unfounded calumnies against the happy government of the United States, and thereby to separate the people therefrom; and to increase or produce a foreign influence, ruinous to the peace, happiness, and independence of these United States."

That the grand jury is a part of the judiciary,

not permanent indeed, but in office, *pro hac vice* and responsible as other judges are for their actings and doings while in office: that for the judiciary to interpose in the legislative department between the constituent and his representative, to control them in the exercise of their functions or duties towards each other, to overawe the free correspondence which exists and ought to exist between them, to dictate what communications may pass between them, and to punish all others, to put the representative into jeopardy of criminal prosecution, of vexation, expense, and punishment before the judiciary, if his communications, public or private, do not exactly square with their ideas of fact or right, or with their designs of wrong, is to put the legislative department under the feet of the judiciary, is to leave us, indeed, the shadow, but to take away the substance of representation, which requires essentially that the representative be as free as his constituents would be, that the same interchange of sentiment be lawful between him and them as would be lawful among themselves were they in the personal transaction of their own business; is to do away the influence of the people over the proceedings of their representatives by excluding from their knowledge, by the terror of punishment all but such information or misinformation as may suit their own views; and is the more vitally dangerous when it is considered that grand jurors are selected by officers nominated and holding their

places at the will of the executive: that they are exposed to influence from the judges who are nominated immediately by the Executive, and who, although holding permanently their commissions as judges, yet from the career of additional office and emolument *actually* opened to them of late, whether *constitutionally* or not, are under all those motives which interest or ambition inspire, of courting the favor of that branch from which appointments flow: that grand juries are frequently composed in part of bystanders, often foreigners, of foreign attachments and interests, and little knowledge of the laws they are most improperly called to decide on; and finally, is to give to the judiciary, and through them to the Executive, a complete preponderance over the legislature, rendering ineffectual that wise and cautious distribution of powers made by the Constitution between the three branches, and subordinating to the other two that branch which most immediately depends on the people themselves, and is responsible to them at short periods.

That independently of these considerations of a constitutional nature, the right of free correspondence between citizen and citizen on their joint interests, public or private, and under whatsoever laws these interests arise, is a natural right of every individual citizen, not the gift of municipal law, but among the objects for the protection of which municipal laws are instituted: that so far as the attempt to take away this natural right of free cor-

respondence is an offence against the privileges of the legislative House, of which the said Samuel J. Cabell is a member, it is left to that House, entrusted with the preservation of its own privileges, to vindicate its immunities against the encroachments and usurpations of a co-ordinate branch; but so far as it is an infraction of our individual rights as citizens by other citizens of our own State, the judicature of this commonwealth is solely competent to its cognizance, no other possessing any powers of redress: that the commonwealth retains all its judiciary cognizances not expressly alienated in the grant of powers to the United States as expressed in their Constitution: that that Constitution alienates only those enumerated in itself, or arising under laws or treaties of the United States made in conformity with its own tenor; but the right of free correspondence is not claimed under that Constitution, nor the laws or treaties derived from it, but as a natural right, placed originally under the protection of our municipal laws, and retained under the cognizance of our own courts.

Your petitioners further observe that though this crime may not be specifically defined and denominated by any particular statute, yet it is a crime, and of the highest and most alarming nature; that the Constitution of this commonwealth, aware it would sometimes happen that deep and dangerous crimes, pronounced as such in the heart of every friend to his country and its free Constitution,

would often escape the definitions of the law, and yet ought not to escape its punishments, fearing at the same time to entrust such undescribed offences to the discretion of ordinary juries and judges, has reserved the same to the cognizance of the body of the commonwealth acting by their representatives in general assembly, for which purpose provision is made by the Constitution in the following words, to wit: "The Governor, when he is out of office, and *others* offending against the State, either by mal-administration, corruption, *or other means* by which the safety of the State may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney General or such other person or persons as the House may appoint in the general court, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or removed from such offices *pro tempore*, or subjected to such pains or penalties as the law shall direct."

Considering then the House of Delegates as the standing inquest of the whole commonwealth so established by the Constitution, that its jurisdiction as such extends over all persons within its limits, and that no pale, no sanctuary has been erected against their jurisdiction to protect offenders who have committed crimes against the laws of the commonwealth and rights of its citizens: that the crime committed by the said grand jurors is of

that high and extraordinary character for which the Constitution has provided extraordinary procedure: that though the violation of right falls in the first instance on us, your petitioners and the representative chosen immediately by us, yet in principle and consequence it extends to all our fellow-citizens, whose safety is passed away whenever their representatives are placed, in the exercise of their functions, under the direction and coercion of either of the other departments of government, and one of their most interesting rights is lost when that of a free communication of sentiment by speaking or writing is suppressed: We, your petitioners, therefore pray that you will be pleased to take your constitutional cognizance of the premises, and institute such proceedings for impeaching and punishing the said A, B, etc., as may secure to the citizens of this commonwealth their constitutional right: that their representatives shall in the exercise of their functions be free and independent of the other departments of government, may guard that full intercourse between them and their constituents which the nature of their relations and the laws of the land establish, may save to them the natural right of communicating their sentiments to one another by speaking and writing, and may serve as a terror to others attempting hereafter to subvert those rights and the fundamental principles of our Constitution, to exclude the people from all direct influence over the government they have

established by reducing that branch of the legislature which they choose directly, to a subordination under those over whom they have but an indirect, distant, and feeble control.

And your petitioners further submit to the wisdom of the two Houses of Assembly whether the safety of the citizens of this commonwealth in their persons, their property, their laws, and government, does not require that the capacity to act in the important office of a juror, grand or petty, civil or criminal, should be restrained in future to native citizens of the United States, or such as were citizens at the date of the treaty of peace which closed our Revolutionary War, and whether the ignorance of our laws and natural partiality to the countries of their birth are not reasonable causes for declaring this to be one of the rights incommunicable in future to adoptive citizens.

We, therefore, your petitioners, relying with entire confidence on the wisdom and patriotism of our representatives in General Assembly, clothed preeminently with all the powers of the people which have not been reserved to themselves, or enumerated in the grant to the General Government delegated to maintain all their rights and relations not expressly and exclusively transferred to other jurisdictions, and stationed as sentinels to observe with watchfulness and oppose with firmness all movements tending to destroy the equilibrium of our excellent but complicated machine of government, invoke

from you that redress of our violated rights which the freedom and safety of our common country calls for. We denounce to you a great crime, wicked in its purpose, and mortal in its consequences unless prevented, committed by citizens of this commonwealth against the body of their country. If we have erred in conceiving the redress provided by the law, we commit the subject to the superior wisdom of this house to devise and pursue such proceedings as they shall think best; and we, as in duty bound, shall ever pray, etc.

Etiquette.[1]

I. In order to bring the members of society together in the first instance, the custom of the country has established that residents shall pay the first visit to strangers, and, among strangers, first comers to later comers, foreign and domestic; the character of stranger ceasing after the first visits. To this rule there is a single exception. Foreign ministers, from the necessity of making themselves known, pay the first visit to the ministers of the nation, which is returned.

II. When brought together in society, all are perfectly equal, whether foreign or domestic, titled or untitled, in or out of office.

All other observances are but exemplifications of these two principles.

[1] Endorsed in Mr. Jefferson's hand: "This rough paper contains what was agreed upon.

I. 1st. The families of foreign ministers, arriving at the seat of government, receive the first visit from those of the national ministers, as from all other residents.

2d. Members of the legislature and of the judiciary, independent of their offices, have a right as strangers to receive the first visit.

II. 1st. No title being admitted here, those of foreigners give no precedence.

2d. Differences of grade among the diplomatic members, give no precedence.

3d. At public ceremonies, to which the government invites the presence of foreign ministers and their families, a convenient seat or station will be provided for them, with any other strangers invited and the families of the national ministers, each taking place as they arrive, and without any precedence.

4th. To maintain the principle of equality, or of *pele mela*, and prevent the growth of precedence out of courtesy, the members of the Executive will practice at their own houses, and recommend an adherence to the ancient usage of the country, of gentlemen in mass giving precedence to the ladies in mass, in passing from one apartment where they are assembled into another.

Charges exhibited to the President of the United States against the Honorable Arthur Sinclair, as Governor of the Territory of the United States Northwest of the river Ohio.

1st. He has usurped legislative powers by the erection of counties and location of the seats of justice, by proclamation, on his own sole authority.

2d. He has misused the power of negativing legislative acts, by putting his negative on laws useful and necessary for the territory.

3d. He has refused to perform the duties of his office but on the payment of arbitrary fees not established by any lawful authority.

4th. He has negatived an act of the legislature abolishing those fees, and passed their act giving him five hundred dollars—meant as a compensation for that abolition, thereby holding both the fees and the compensation.

5th. He has attempted to effect the dismemberment of the territory, and to destroy its constitutional boundaries, in order to prevent its advancement to those rights of self-government to which its numbers would entitle it.

6th. He has granted commissions generally during pleasure; but that of Attorney General to his own son during good behavior.

7th. He has endeavored arbitrarily to influence and control the proceedings of the Judiciary, and has revoked or effected a surrender of the commis-

sions of those who have refused to bend to his will, (acknowledged, p. 22; revoked three commissions, p. 2.)

8th. He has appointed persons residing out of a county to offices, the duties of which were to be habitually performed within them. (Acknowledged, p. 20, in the case of Robb, his son-in-law, made recorder of Clermont though living in Hamilton—executed by deputy.)

9th. He has obstructed the organization and disciplining of a militia for the defence of the territory, by withholding the appointment of officers years after a law had passed establishing them.

10th. He has avowed his hostility to the form and substance of republican government.

1st. The ordinance in the paragraph respecting counties, speaks of laws adopted or made, which must refer both to the first and second stage of government; it then gives the Governor power to lay out counties from time to time, reserving a right to the legislature thereafter to alter them. This may mean that the Governor is always to lay out first, and the legislature thereafter to alter; or it may mean that the Governor is to lay out during the first stage of government, and the legislature to do it in the second, *reddendo singula singulis*. The first construction renders the power reserved the legislature null, because the Governor having a negative will not permit the other branches to act against his opinion manifested in the original laying

out. The second construction gives it full effect, and must therefore be understood to be that intended by Congress, who certainly meant to reserve a practicable right to the legislature—not a nugatory one, and the rather as the forming counties is an act of law-making, not of the execution of a law. The place of dispensing justice may not seem essentially legislative at first view, but to rest naturally with those who are to dispense it; yet when we consider it in all its relations to public convenience as well as justice, at how early a date it was deemed a grievance in England, and fixed by law, and how universally so in these States, this gives a sure practical construction of what Congress must have intended.

2d. The policy of giving a negative on laws to the Executive seems to be: 1st, to provide protection against the legislature for the other independent departments. 2d. To protect such portions of the citizens as might be oppressed by a local or partial interest happening to predominate in the legislature at the moment. But not to set up the judgment of a single individual in cases of ordinary legislation against the collected wisdom of the nation. If these ideas be just, Governor Sinclair is guilty on the second charge.

5th. The ordinance permits the whole territory northwest of the Ohio to be divided by Congress into three or five States, and says, whenever any of the said *States* shall have sixty thousand inhabi-

tants it shall be received in Congress. The change of boundary proposed by the late act of the northwest legislature did divide the population into two parts, so that both would have been much longer reaching sixty thousand than if the boundaries remained fixed by the ordinance. That the act dismembered that portion of territory which claimed to be a State, is certain. That Governor Sinclair assented to it at least is certain. That he promoted it by his influence, and with a view to continue himself and friends the longer in place and power, is suggested by many, and will be judged of by every one according to the opinion entertained of his attachment to his office, or his power of preserving his mind unbiased by that attachment or any other particular views. See Sinclair's letter to Harrison, printed State papers, March 14th, 1800.

6th. The censure implied in this charge seems to be not so much in the Governor's giving commissions during pleasure in the judiciary line, though a tenure for life there is familiar, as the making the Attorney General an officer for life, a thing unprecedented, and its being in the case of his own son. The reason assigned by the Governor that he gave him this fixed tenure, because he at that time proposed himself to retire from office, and meant thus to protect his son against his successor, admits the fact charged, and is far from justifying it.

7th. Admitting the tenure of every commission, without any special limitation, to be during the

will of him who grants it, the conduct of the three justices whose commission was revoked, and that of Mr. Finlay whose resignation was not accepted, is not sufficiently clear of blame to fix the charge of arbitrarily influencing and controlling the judiciary.

8th. This charge is admitted to be true by Governor Sinclair, in the case of his son-in-law, made Recorder of Clermont, while he lived in Hamilton. See page 20. He urges some matters in justification. Several other instances are stated by Worthington and Meigs. Will's case, p. 46.

9th. This cannot be decided but on a view of the laws.

4th. That one of these acts was meant as a compensation for the other, is not proved. See pp. 24, 43.

3d. The real charge here is that the Governor and judges selected laws from the codes of the States to give themselves fees. I was a member of Congress, and I believe of the committee which prepared the first plan for the organization of the new States. A legislature to be composed of the Governor and judges was a measure of necessity in the earliest stages of those territorial governments; yet we were sensible it was fundamentally wrong to submit freemen to laws made by officers of the Executive. It was determined, then, they should not make laws themselves, but adopt from the codes of the States, which being passed by freemen for their own government, it was supposed would never

be oppressive. But no one dreamt of their selecting laws to give themselves fees. For to what a length might not this be carried by entitling themselves to fees for every act which was allowed a fee in any single State? Their salaries were certainly understood to be in lieu of all emoluments; yet they early began this abuse. Governor Sinclair and his associates set the example. It was not unnoticed. But as every one had rather another should pass personal censures than himself, the first laws for this purpose were laid by myself before Congress with the other laws, without comment, the power of repealing being in them. Partly from much business, partly from no individual member being willing to come forward as the denunciator, the thing went on till the arbitrary and intolerable temper of Governor Sarjeant urged it on the notice of Congress. On the 12th of February, 1795, this among other legislative practices, had been disapproved by the House of Representatives, (report, p. 8, 9, February 19, 1801,) and lost in the Senate. But February 19, 1801, a committee of friends to Sarjeant, appointed by his friend Sedgwick, reported it an abuse, but not proceeding from criminal intentions, and therefore resolved that there ought to be no further proceedings for mal-administration against him, to which resolution the House disagreed by a vote of fifty against thirty-eight, though a federal House; but this being late in the day of the 3d of March, 1801, on which day they were to rise,

nothing further could be done. But Governor Sarjeant's time expiring soon after, his commission was not renewed for this among other reasons.

Hints on the Subject of Indian Boundaries, suggested for Consideration. December 29th, 1802.

An object, becoming one of great importance, is the establishment of a strong front on our western boundary, the Mississippi, securing us on that side, as our front on the Atlantic does towards the East. Our proceedings with the Indians should tend systematically to that object, leaving the extinguishment of title in the interior country to fall in as occasions may arise. The Indians being once closed in between strong settled countries on the Mississippi and Atlantic, will, for want of game, be forced to agriculture, will find that small portions of land, well improved, will be worth more to them than extensive forests unemployed, and will continually be parting with portions of them for money to buy stock, utensils, and necessaries for their farms and families.

On the Mississippi, we hold at present from our southern boundary to the Yazoo. From the Yazoo to the Ohio is the property of the Chickasaw, a tribe the most friendly to us, and at the same time the most adverse to the diminution of their lands. The portion of their territory of first importance to us, would be the slip between the Mississippi on

the west, and on the east the Yazoo and the ridge dividing the waters of the Mississippi and Tennessee. Their main settlements are eastward of this. I believe they have few within this and towards the Mississippi. The method by which we may advance towards our object will be, 1, to press the encouragements to agriculture, by which they may see how little land will maintain them much better, and the advantage of exchanging useless deserts to improve their farms. 2. To establish among them a factory or factories for furnishing them with all the necessaries and comforts they may wish (spirituous liquors excepted), encouraging these and especially their leading men, to run in debt for these beyond their individual means of paying; and whenever in that situation, they will always cede lands to rid themselves of debt. A factory about the Chickasaw bluffs, would be tolerably central, and they might admit us to tend corn for feeding the factory and themselves when at it, and even to fix some persons for the protection of the factory from the Indians west of the Mississippi, and others. After awhile we might purchase these, and add to it from time to time. 3. We should continue to increase and nourish their friendship and confidence by every act of justice and of favor which we can possibly render them. What we know in favor of the other Indians, should not constitute the measure of what we do for these, our views as to these being so much more important. This tribe is very poor,

and they want necessaries with which we abound. We want lands with which they abound; and these natural wants seem to offer fair ground of mutual supply.

The country between the Mississippi and Illinois on one side, and the Ohio and Wabash on the other, is also peculiarly desirable to us, and is in a situation this moment which renders it particularly easy for us to acquire a considerable portion of it. It has belonged to the Kaskaskias, Cahokias and Piorias. The Cahokias (of whom the Michiganris were a part) have been anticipated by the Sacs, the Piorias driven off, and the Kaskaskias decreased to a few families. Governor Harrison, in his letter of November 28th, 1802, says the Pioria chief has offered the right of his nation to these lands for a trifle. We should not fail to purchase it immediately. The Cahokias being extirpated, we have a right to their lands in preference to any Indian tribe, in virtue of our permanent sovereignty over it. He also says that De Coigne, the Kaskaskia chief, would make easy terms with us. I think we should be liberal in our offers to the Kaskaskians. They are now but a few families, exposed to numerous enemies, and unable to defend themselves, and would cede lands in exchange for protection. We might agree to their laying off one hundred acres of the best soil for every person, young and old, of their tribe, we might enclose it well for them in one general inclosure, give to every family utensils and

stock sufficient for their portion of it, and give them an annuity in necessaries, on their ceding to us their whole country, on retaining for themselves only a moderate range around their farms for their stock to range in; and we might undertake to protect them from their enemies. Having thus established ourselves in the rights of the Kaskaskias, Cahokias and Piorias, we should have to settle the boundaries between them and the Kickapoos, Powtawatamies and Weaws. We should press again the good will of these tribes by friendly acts, and of their chiefs by largesses, and then propose to run the line between us, to claim whatever can be said to be doubtful, offering them a liberal price for their pretensions, and even endeavoring to obtain from them a cession of so much of their acknowledged territory as they can be induced to part with.

As to the country on the Mississippi above the mouth of the Illinois, its acquisition is not pressing in the present state of things. It might be well to be inquiring into titles, and to claim whatever may have been abandoned or lost by its native owners, so as to prevent usurpation by tribes having no right; as also to purchase such portions as may be found in the occupation of small remnants of tribes nearly extinct and disposed to emigrate.

For the present, it is submitted to the consideration of the Secretary of War, whether instructions should not be immediately given to Governor Harrison to treat with the Piorias and Kaskaskias

chiefs; as to the latter, which is most important, it would be easy to solicit and bring over by presents every individual of mature age.

Notes on the Subject of the Consular Convention between the United States and France. May 3d, 1803.

In 1784 a convention was entered into between Dr. Franklin and the Count de Vergennes concerning consuls. It contained many things absolutely inadmissible by the laws of the several States, and inconsistent with their genius and character. Dr. Franklin, not being a lawyer, and the project offered by the Count de Vergennes being a copy of the conventions which were established between France and the despotic States on the continent (for with England they never had one), he seems to have supposed it a formula established by universal experience, and not to have suspected that it might contain matters inconsistent with the principles of a free people. He returned to America soon after the signature of it. Congress received it with the deepest concern. They honored Dr. Franklin, they were attached to the French nation; but they could not relinquish fundamental principles. They declined ratifying it, and sent it back with new powers and instructions to Mr. Jefferson, who succeeded Dr. Franklin at Paris. The most objectionable matters were the privileges and exemptions given to the

consuls, and their powers over persons of the nation, establishing a jurisdiction independent of that of the nation in which it was exercised, and uncontrollable by it. The French government valued these, because they then apprehended a very extensive emigration from France to the United States, which this convention enabled them to control. It was, therefore, with the utmost reluctance, and inch by inch, that they could be induced to relinquish these conditions. The following changes, however, were effected by the convention of 1788:

The clauses of the convention of 1784, clothing consuls with the privileges of the laws of nations, were struck out, and they were expressly subjected, in their persons and property, to the laws of the land.

The giving the right of sanctuary to their houses, was reduced to a protection of their chancery room and its papers.

Their coercive powers over passengers were taken away; and those whom they might have termed deserters of their nation, were restrained to deserted seamen only.

The clause allowing them to arrest and send back vessels, was struck out, and instead of it they were allowed to exercise a police over the ships of their nation generally.

So was that which declared the indelibility of the character of subject, and the explanation and extension of the eleventh article of the treaty of amity.

The innovations in the laws of evidence were done away; and the convention, from being perpetual, was limited to twelve years.

Although strong endeavors were made to do away some other disagreeable articles, yet it was found that more could not be done without disturbing the good humor which Congress wished so much to preserve, and the limitation obtained for the continuance of the convention insured our getting finally rid of the whole. Congress, therefore, satisfied with having so far amended their situation, ratified the convention of 1788 without hesitation.

To Mr. Wingate.

Resolutions Relative to the Alien and Sedition laws.[1]

1. *Resolved*, That the several States composing the United States of America, are not united on the principle of unlimited submission to their General Government; but that, by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes,—delegated to that government certain definite powers, reserving, each State to itself, the residuary mass

[1] Two copies of these resolutions are preserved among the manuscripts of the author, both in his own handwriting. One is a rough draught, and the other very neatly and carefully prepared. The probability is, that they are the original of the celebrated Kentucky Resolutions on the same subject.—Ed.

of right to their own self-government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force: that to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party: that the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among powers having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

2. *Resolved*, That the Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies, and felonies committed on the high seas, and offences against the law of nations, and no other crimes whatsoever; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore the act of Congress, passed on the 14th day of July, 1798, and intituled "An Act in addition to the act intituled An Act for the punishment of certain

crimes against the United States," as also the act passed by them on the — day of June, 1798, intituled "An Act to punish frauds committed on the bank of the United States," (and all their other acts which assume to create, define, or punish crimes, other than those so enumerated in the Constitution,) are altogether void, and of no force; and that the power to create, define, and punish such other crimes is reserved, and, of right, appertains solely and exclusively to the respective States, each within its own territory.

3. *Resolved*, That it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or the people: that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated, rather than the use be destroyed. And thus also they guarded against all abridgment

by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this State, by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference. And that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press:" thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press: insomuch, that whatever violated either, throws down the sanctuary which covers the others, and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals. That, therefore, the act of Congress of the United States, passed on the 14th day of July, 1798, intituled "An Act in addition to the act intituled An Act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void, and of no force.

4. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are: that no power over them has been delegated to the United States, nor prohibited to

the individual States, distinct from their power over citizens. And it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," the act of the Congress of the United States, passed on the — day of July, 1798, intituled "An Act concerning aliens," which assumes powers over alien friends, not delegated by the Constitution, is not law, but is altogether void, and of no force.

5. *Resolved*, That in addition to the general principle, as well as the express declaration, that powers not delegated are reserved, another and more special provision, inserted in the Constitution from abundant caution, has declared that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808;" that this commonwealth does admit the migration of alien friends, described as the subject of the said act concerning aliens: that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory: that to remove them when migrated, is equivalent to a prohibition of their migration, and is, therefore, contrary to the said provision of the Constitution, and void.

6. *Resolved*, That the imprisonment of a person

under the protection of the laws of this commonwealth, on his failure to obey the simple *order* of the President to depart out of the United States, as is undertaken by said act intituled "An Act concerning aliens," is contrary to the Constitution, one amendment to which has provided that "no person shall be deprived of liberty without due process of law;" and that another having provided that "in all criminal prosecutions the accused shall enjoy the right to public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence," the same act, undertaking to authorize the President to remove a person out of the United States, who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without hearing witnesses in his favor, without defence, without counsel, is contrary to the provision also of the Constitution, is therefore not law, but utterly void, and of no force: that transferring the power of judging any person, who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides that "the judicial power of the United States shall be vested in courts, the judges of which shall

hold their offices during good behavior;" and that the said act is void for that reason also. And it is further to be noted, that this transfer of judiciary power is to that magistrate of the General Government who already possesses all the Executive, and a negative on all legislative powers.

7. *Resolved*, That the construction applied by the General Government (as is evidenced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power "to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide for the common defence and general welfare of the United States," and "to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States, or in any department or officer thereof," goes to the destruction of all limits prescribed to their power by the Constitution: that words meant by the instrument to be subsidiary only to the execution of limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part to be so taken as to destroy the whole residue of that instrument: that the proceedings of the General Government under color of these articles, will be a fit and necessary subject of revisal and correction, at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8th. *Resolved*, That a committee of conference

and correspondence be appointed, who shall have in charge to communicate the preceding resolutions to the legislatures of the several States; to assure them that this commonwealth continues in the same esteem of their friendship and union which it has manifested from that moment at which a common danger first suggested a common union: that it considers union, for specified national purposes, and particularly to those specified in their late federal compact, to be friendly to the peace, happiness and prosperity of all the States: that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of self-government and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness or prosperity of these States; and that therefore this commonwealth is determined, as it doubts not its co-States are, to submit to undelegated, and consequently unlimited powers in no man, or body of men on earth: that in cases of an abuse of the delegated powers, the members of the General Government, being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful

remedy: that every State has a natural right in cases not within the compact, (casus non fœderis,) to nullify of their own authority all assumptions of power by others within their limits: that without this right, they would be under the dominion, absolute and unlimited, of whosoever might exercise this right of judgment for them: that nevertheless, this commonwealth, from motives of regard and respect for its co-States, has wished to communicate with them on the subject: that with them alone it is proper to communicate, they alone being parties to the compact, and solely authorized to judge in the last resort of the powers exercised under it, Congress being not a party, but merely the creature of the compact, and subject as to its assumptions of power to the final judgment of those by whom, and for whose use itself and its powers were all created and modified: that if the acts before specified should stand, these conclusions would flow from them; that the General Government may place any act they think proper on the list of crimes, and punish it themselves whether enumerated or not enumerated by the Constitution as cognizable by them: that they may transfer its cognizance to the President, or any other person, who may himself be the accuser, counsel, judge and jury, whose *suspicions* may be the evidence, his *order* the sentence, his *officer* the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of

the inhabitants of these States being, by this precedent, reduced, as outlaws, to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the powers of a majority in Congress to protect from a like exportation, or other more grievous punishment, the minority of the same body, the legislatures, judges, governors, and counsellors of the States, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the States and people, or who for other causes, good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or be thought dangerous to his or their election, or other interests, public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather, has already followed, for already has a sedition act marked him as its prey: that these and successive acts of the same character, unless arrested at the threshold, necessarily drive these States into revolution and blood, and will furnish new calumnies against republican government, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism—free government is founded in jealousy,

and not in confidence; it is jealousy and not confidence which prescribes limited constitutions, to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which, and no further, our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits. Let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on our President, and the President of our choice has assented to, and accepted over the friendly strangers to whom the mild spirit of our country and its laws have pledged hospitality and protection: that the men of our choice have more respected the bare *suspicions* of the President, than the solid right of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution. That this commonwealth does therefore call on its co-States for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorized by the federal compact. And it doubts not that their sense will be so announced as to prove

their attachment unaltered to limited government, whether general or particular. And that the rights and liberties of their co-States will be exposed to no dangers by remaining embarked in a common bottom with their own. That they will concur with this commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration that that compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these States, of all powers whatsoever: that they will view this as seizing the rights of the States, and consolidating them in the hands of the General Government, with a power assumed to bind the States, (not merely as the cases made federal, (casus fœderis,) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: that this would be to surrender the form of government we have chosen, and live under one deriving its powers from its own will, and not from our authority; and that the co-States, recurring to their natural right in cases not made federal, will concur in declaring these acts void, and of no force, and will each take measures of its own for providing that neither these acts, nor any others of the General Government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories.

9th. *Resolved*, That the said committee be author-

ized to communicate by writing or personal conferences, at any times or places whatever, with any person or persons who may be appointed by any one or more co-States to correspond or confer with them; and that they lay their proceedings before the next session of Assembly.

Dr. Stevens' Case.[1] *June 12th*, 1804.

I consider the annual act which appropriates a given sum to the expenses of intercourse with foreign nations, as a sufficient authority to the President (the constitutional organ of foreign intercourse) to expend that sum for the purposes of foreign intercourse at his discretion. If he abuses that discretion, he is responsible for it in a constitutional way. The legal restrictions on this power are, 1. That for outfit or compensation for personal services and expenses to certain specified grades (which are those chiefly used by the United States), not more than specified sums shall be allowed. 2. That the

[1] June 12th, 1804.

Mr. Gallatin,—On the subject of Dr. Stevens' case, I had, before receiving your letter, endeavored to form as correct a judgment as I could, and had made some notes, keeping them open till I might see whether anything further should be added. I have this morning put them into some form. Of the purity of the motives of your objections, it was impossible I should ever entertain a moment's doubt. Of my opinion of their solidity, you will see a proof in the conclusions I have drawn, and which will probably condemn more than the half of Dr. Stevens' claims. I enclose you a copy of my opinion on the subject, which may serve as the direction of the Department of State to the comptroller. Accept my affectionate salutations.

whole expenses shall not exceed the sum appropriated. 3. That an account of the expenditure shall be rendered. The sum on which these restrictions leave the Executive discretion to act, is too small to excite any rational jealousy, or to render it useful to restrict it further by rigorous and unusual constructions. The Executive, therefore, is believed to be free to make allowance to the specified grades for any object than those (for personal services and expenses), and to employ any unspecified grade on such salary and allowance as he thinks proper within the limits of the whole appropriation. Nor is any law, or principle of law known, which would forbid the superadding these agencies and allowances for them to the ordinary functions of a court minister, etc. I consider the appointment, therefore, and allowance to Dr. Stevens to have been within the limits of the Executive authority.

Whenever it is agreed between two parties that certain services shall be performed by the one for the other, and no special compensation is stipulated, the law understands their intention to be that a *quantum meruit*, or a reasonable compensation shall be allowed. Such an agreement will therefore be implied by law in the case of Dr. Stevens. What is that reasonable compensation? Not his expenses, however extravagant, even if a contract could be proved that his expenses were to be paid. The law understands such a promise to mean his reasonable expenses only. His functions were in a certain

degree of a diplomatic nature. Yet the government to which he was sent, not being independent, he could not be invested formally with any diplomatic grade. If we place him, therefore, on the level of the lowest grade, that of a chargé des affaires, and make that the measure of his *quantum meruit*, we shall do him full justice. No circumstance justifies his assuming a higher place.

But shall he be considered as a permanent agent, and therefore entitled to an outfit, or only as an occasional one to be allowed the reasonable expenses of his passage, which is the rule with occasional diplomatic agents? His not having been nominated to the Senate clearly excludes him from the character of a permanent agent, if it does not take from him all legal character after their first session following his appointment. To draw such a line as will admit the Executive, during the recess of the Senate, to despatch a special agent for a particular purpose without awaiting their approbation, and yet not enable him, by continuing that agent permanently, to evade the constitutional approbation of the Senate, and to keep up a separate corps of diplomacy of his own, will require great consideration, caution and candor, and until it be done, great attention in the Executive to keep within unquestionable bounds. I do not think, however, that the right of Dr. Stevens ought to depend on that definition. An individual who is employed by the highest public functionary to do a public service

within the line of his authority, is bound to consider him as acting with legal powers, and as alone charged with all the responsibility if he transcends his powers. Dr. Stevens had a right to expect the Executive would nominate him to the Senate for approbation, if that nomination was necessary. He proceeds in his duty, and supposes the Executive does the same, and ought not to lose his right by the failure of the latter. The public in such case should pay the individual, and take on themselves the measures necessary to prevent similar infractions of the Constitution in future.

Questions meriting great consideration, have been made as to the sufficiency of the evidence offered in support of Dr. Stevens' claims. The settling by a *quantum meruit*, the claim (for personal services and expenses) gets rid of this question so far. For that the services were performed is notorious; and that it was by public authority, results from the whole correspondence. It has been suspected, indeed, that there was no contract, nor any other reward intended than certain privileges of commerce. But this is not the way the United States pay their servants. Monopolizing compensations are among the most fatal abuses which some governments practice from false economy. They are not the usage here, and if suggested, the *onus probandi* is thrown on the party suggesting it. The law will presume a fair and usual contract, but not one which is improper and unusual.

The claim for travelling expenses within the limits of his agency, would require proof of positive contract. When an agent for a limited district, is sent into another, his expenses have been usually allowed; but never those of travelling to and from places within his regular care, and for the regular purposes of that care. His general allowance compensates his general superintendence over the whole, and to pay him for visiting each particular part also, would be a double payment. This would lead to endless claims and difficulties.

The hire of despatch vessels has been attended with such singular circumstances as excite almost invincible suspicion that they came on the ordinary business of the mercantile house. This means of conveying information is so expensive, that it is not allowed even to diplomatic agences, but on great and important emergencies, on each of which as it arises, the Department of State will decide, at the risk of the agent venturing on it. Whether these despatch vessels came purely on public account, and whether the matter they were charged with justified the expense, should be strictly inquired into.

Inquiry will doubtless also be made, 1, whether Mr. Yard's connection in interest with Dr. Stevens will admit him to be a witness in this case; and 2, if it does, his testimony will be estimated, as every other man's is which is given under circumstances of bias of which he is not sensible himself.

In deciding on these questions of evidence, we are bound to proceed by the same laws of evidence which govern the courts of justice. These are the laws of the land, admitting no exceptions of person, public or private. The laws in refusing an appeal to the ordinary tribunals in questions between an individual and the public, and leaving the decision in the Executive department, has changed the judge in this instance, but not the law. It has given judiciary but not legislative powers; and the laws of the land are the inheritance and the right of every man, before whatever tribunal he is brought. For instance, that a contract need not be on record; that it may be by parol as well as in writing, that a written contract may be controlled by verbal agreement or other intrinsic matter, are principles of law to which Dr. Stevens is entitled on the one hand, as it is our duty, on the other, to bring his claims to the test of law, to sift the facts on which they rest by the common rules of evidence, and to decide according to these on every item of his accounts, not weakly to relieve an individual by giving him the public money, nor arbitrarily to withhold by public power what is justly due to an individual. This investigation cannot be better trusted than to the justice and judgment of the comptroller, to whom therefore it is referred.

Notes on a Draught for a Second Inaugural Address.

The former one was an exposition of the principles on which I thought it my duty to administer the government. The second, then, should naturally be a *compte rendu*, or a statement of facts showing that I have conformed to those principles. The former was *promise:* this is *performance.* Yet the nature of the occasion requires that detail should be avoided; that the most prominent heads only should be selected, and these placed in a strong light, but in as few words as possible. These heads are foreign affairs, domestic ditto, viz.: Taxes, Debts, Louisiana, Religion, Indians, the Press. None of these heads need any commentary but that of Indians. This is a proper topic, not only to promote the work of humanizing our citizens towards these people, but to conciliate to us the good opinion of Europe on the subject of the Indians. This, however, might have been done in half the compass it here occupies. But every respecter of science, every friend to political reformation, must have observed with indignation the hue and cry raised against philosophy and the rights of man; and it really seems as if they would be overborne, and barbarism, bigotry, and despotism, would recover the ground they have lost by the advance of the public understanding. I have thought the occasion justified some discountenance of these anti-social doctrines, some testimony against them.

But not to commit myself in direct warfare on them, I have thought it best to say what is directly applied to the Indians only, but admits by inference a more general extension.

Farewell Address to Thomas Jefferson, President of the United States.

[Agreed to by both Houses, Feb. 7, 1809.]

Sir,—The General Assembly of your native State cannot close their session, without acknowledging your services in the office which you are just about to lay down, and bidding you a respectful and affectionate farewell.

We have to thank you for the model of an administration conducted on the purest principles of republicanism; for pomp and state laid aside; patronage discarded; internal taxes abolished; a host of superfluous officers disbanded; the monarchic maxim "that a national debt is a national blessing," renounced, and more than thirty-three millions of our debt discharged; the native right to nearly one hundred millions of acres of our national domain extinguished; and, without the guilt or calamities of conquest, a vast and fertile region added to our country, far more extensive than her original possessions, bringing along with it the Mississippi and the port of Orleans, the trade of the west to the Pacific ocean, and in the intrinsic value of the land itself, a source of permanent and almost inexhaust-

ible revenue. These are points in your administration which the historian will not fail to seize, to expand, and teach posterity to dwell upon with delight. Nor will he forget our peace with the civilized world, preserved through a season of uncommon difficulty and trial; the good will cultivated with the unfortunate aborigines of our country, and the civilization humanely extended among them; the lesson taught the inhabitants of the coast of Barbary, that we have the means of chastising their piratical encroachments, and awing them into justice; and that theme, on which, above all others, the historic genius will hang with rapture, the liberty of speech and of the press preserved inviolate, without which genius and science are given to man in vain.

In the principles on which you have administered the government, we see only the continuation and maturity of the same virtues and abilities, which drew upon you in your youth the resentment of Dunmore. From the first brilliant and happy moment of your resistence to foreign tyranny, until the present day, we mark with pleasure and with gratitude the same uniform, consistent character, the same warm and devoted attachment to liberty and the republic, the same Roman love of your country, her rights, her peace, her honor, her prosperity.

How blessed will be the retirement into which you are about to go! How deservedly blessed will

it be! For you carry with you the richest of all rewards, the recollection of a life well spent in the service of your country, and proofs the most decisive, of the love, the gratitude, the veneration of your countrymen.

That your retirement may be as happy as your life has been virtuous and useful; that our youth may see in the blissful close of your days, an additional inducement to form themselves on your model, is the devout and earnest prayer of your fellow citizens who compose the General Assembly of Virginia.

Notes on Fifth Volume of Marshall's Life of Washington.

Page 2. "*The practicability of perpetuating his authority, etc.*" I am satisfied that General Washington had not a wish to perpetuate his authority; but he who supposes it was practicable, had he wished it, knows nothing of the spirit of America, either of the people or of those who possessed their confidence. There was indeed a cabal of the officers of the army who proposed to establish a monarchy and to propose it to General Washington. He frowned indignantly at the proposition [according to the information which got abroad,] and Rufus King and some few civil characters, chiefly [indeed, I believe to a man] north of Maryland, who joined in this intrigue. But they never dared openly to

avow it, knowing that the spirit which had produced a change in the form of government was alive to the preservation of it.

Page 28. The member of Congress here alluded to was myself, and the extracts quoted, was part of a letter from myself in answer to one General Washington wrote. (See both.) General Washington called on me at Annapolis (where I then was as a member of Congress), on his way to the meeting of the Cincinnati in Philadelphia. We had much conversation on the institution, which was chiefly an amplification of the sentiments in our letters, and, in conclusion, after I had stated to him the modifications which I thought might remove all jealousies, as well as dangers, and the parts which might still be retained, he appeared to make up his mind, and said: "No! not a fibre of it must be retained—no half-way reformation will suffice. If the thing be bad, it must be totally abolished." And he declared his determination to use his utmost endeavors to have it entirely abolished. On his return from Philadelphia he called on me again at Annapolis, and sat with me until a very late hour in the night, giving me an account of what passed in their convention. The sum of it was that he had exerted his whole influence in every way in his power to procure an abolition; that the opposition to it was extreme, and especially from some of the younger members; but that after several days of struggle within doors and without, a general senti-

ment was obtained for its entire abolition. Whether any vote had been taken on it or not, I do not remember; but his affirmation to me was, that within a few days (I think he said two or three) it would have been formally abolished. Just in that moment arrived Major L'Enfant, who had been sent to France to procure the Eagles, and to offer the order to the French officers who had served in America. He brought the King's permission to his officers to accept it, the letters of thanks of these officers accepting it, letters of solicitation from other officers to obtain it, and the Eagles themselves. The effect of all this on the minds of the members was to undo much of what had been done; to rekindle all the passions which had produced the institution, and silence all the dictates of prudence, which had been operating for its abolition. After this, the General said, the utmost that could be effected was the modification which took place, and which provided for its extinction with the death of the existing members. He declined the presidency, and, I think, Baron Steuben was appointed. I went soon after to France. While there, M. de Meunier, charged with that part of the Encyclopédie Methodique which relates to economy politique and diplomatique, called on me with the article of that dictionary, "Etats Unis," which he had prepared ready for the press, and begged I would revise it and make any notes on it which I should think necessary towards rendering it correct. I furnished

him most of the matter of his fifth, sixth, eighth, ninth, and tenth sections of the article "Etats Unis," with which, however, he intermixed some of his own. The ninth is that which relates to the Cincinnati. On this subject, the section, as prepared by him, was an unjust and incorrect philippic against General Washington and the American officers in general. I wrote a substitute for it, which he adopted, but still retaining considerable of his own matter, and interspersing it in various parts.

Page 33. "*In a government constituted*," *etc.* Here begins the artful complexion he has given to the two parties, Federal and Republican. In describing the first by their views and motives, he implies an opposition to those motives in their opponents which is totally untrue. The real difference consisted in their different degrees of inclination to Monarchy or Republicanism. The Federalists wished for everything which would approach our new government to a monarchy. The Republicans to preserve it essentially republican. This was the true origin of the division, and remains still the essential principle of difference between the two parties.

Scheme for a System of Agricultural Societies.
March, 1811.

Several persons, farmers and planters of the county of Albemarle, having, during their visits and occasional meetings together, in conversations on the subjects of their agricultural pursuits, received considerable benefits from an intercommunication of their plans and processes in husbandry, they have imagined that these benefits might be usefully extended by enlarging the field of communication so as to embrace the whole dimensions of the State. Were practical and observing husbandmen in each county to form themselves into a society, commit to writing themselves, or state in conversations at their meetings to be written down by others, their practices and observations, their experiences and ideas, selections from these might be made from time to time by every one for his own use, or by the society or a committee of it, for more general purposes. By an interchange of these selections among the societies of the different counties, each might thus become possessed of the useful ideas and processes of the whole; and every one adopt such of them as he should deem suitable to his own situation. Or to abridge the labor of such multiplied correspondences, a central society might be agreed on to which, as a common deposit, all the others should send their communications. The society thus honored by the general confidence, would

doubtless feel and fulfil the duty of selecting such papers as should be worthy of entire communication, of extracting and digesting from others whatever might be useful, and of condensing their matter within such compass as might reconcile it to the reading, as well as to the purchase of the great mass of practical men. Many circumstances would recommend, for the central society, that which should be established in the county of the seat of government. The necessary relations of every county with that would afford facilities for all the transmissions which should take place between them. The annual meeting of the legislature at that place, the individuals of which would most frequently be members of their county societies, would give opportunities of informal conferences which might promote a general and useful understanding among all the societies; and presses established there offer conveniences entirely peculiar to that situation.

In a country, of whose interests agriculture forms the basis, wherein the sum of productions is limited by the quantity of the labor it possesses, and not of its lands, a more judicious employment of that labor would be a clear addition of gain to individuals as well as to the nation, now lost to both by a want of skill and information in its direction. Every one must have seen farms otherwise equal, the one producing the double of the other by the superior culture and management of its possesssor; and every one must have under his eye numerous examples

of persons setting out in life with no other possession than skill in agriculture, and speedily, by its sole exercise, acquire wealth and independence. To promote, therefore, the diffusion of this skill, and thereby to procure, with the same labor now employed, greater means of subsistence and of happiness to our fellow citizens, is the ultimate object of this association; and towards effecting it, we consider the following particulars among those most worthy of the attention of the societies proposed.

1st. And principally the cultivation of our primary staples of wheat, tobacco, and hemp, for market.

2d. All subsidiary articles for the support of the farm, the food, the clothing and the comfort of the household, as Indian corn, rye, oats, barley, buckwheat, millet, the family of peas and beans, the whole family of grasses, turnips, potatoes, Jerusalem artichokes, and other useful roots, cotton and flax, the garden and orchard.

3d. The care and services of useful animals for the saddle or draught, for food or clothing, and the destruction of noxious quadrupeds, fowls, insects, and reptiles.

4th. Rotations of crops, and the circumstances which should govern or vary them, according to the varieties of soil, climate, and markets, of our different counties.

5th. Implements of husbandry and operations with them, among which the plough and all its kindred instruments for dividing the soil, holds the

first place, and the threshing machine an important one, the simplification of which is a great desideratum. Successful examples, too, of improvement in the operations of these instruments would be an excitement to correct the slovenly and unproductive practices too generally prevalent.

6th. Farm buildings and conveniences, inclosures, roads, fuel, timber.

7th. Manures, plaster, green-dressings, fallows, and other means of ameliorating the soil.

8th. Calendars of works, showing how a given number of laborers and a draught of animals are to be employed every day in the year so as to perform within themselves, and in their due time, according to the usual course of seasons, all the operations of a farm of given size. This being essential to the proportioning the labor to the size of the farm

9th. A succinct report of the different practices of husbandry in the county, including the bad as well as the good, that those who follow the former may read and see their own condemnation in the same page which offers better examples for their adoption. It is believed that a judicious execution of this article alone, might nearly supersede every other duty of the society, inasmuch as it would present every good practice which has occurred to the mind of any cultivator of the State for imitation, and every bad one for aviodance. And the choicest processes culled from every farm, would compose a course probably near perfection.

10th. The county communications being first digested in their respective societies, a methodical and compact digest and publication of these would be the duty of the central society; and on the judicious performance of this, would in a great degree depend the utility of the institutions, and extent of improvement flowing from them.

11th. That we may not deter from becoming members, those practical and observing husbandmen whose knowledge is the most valuable, and who are mostly to be found in that portion of citizens with whom the observance of economy is necessary, all duties of every kind should be performed gratis; and to defray the expenses of the central publication alone, each member should pay at the first stated meeting of his society in every year, —— dollars, for which he should be entitled to receive a copy of the publication bound in boards.

12th. The first association of —— persons in any county notifying themselves as constituted to the central society, should be received as the society of the county making a part of the general establishment here proposed; but every county society should be free to adopt associate members, although residents of other counties, and to receive and avail the institution of communications from persons not members, whether in or out of their county.

We are far from presuming to offer this organization and these principles of constitution as complete, and worthy the implicit adoption of other societies.

They are suggested only as propositions for consideration and amendment, and we shall readily accede to any others more likely to effect the purposes we have in view. We know that agricultural societies are already established in some counties; but we are not informed of their particular constitutions. We request these to be admitted into their brotherhood, and to make with them parts of one great whole. We have learned that such a society is formed or forming at the seat of our government. We ask their affiliation, and give them our suffrage for the station of central society. We promise to all our zealous co-operation in promoting the objects of the institution, and to contribute our mite in exchange for the more abundant information we shall receive from others.

For these purposes we now constitute ourselves an agricultural society of the county of Albemarle, and adopt as rules for present observance, the principles before stated.

Our further organization shall be a president, secretary and treasurer, to be chosen at the first stated meeting to be held in every year, by a majority of the members present, provided those present be a majority of the existing members, and to continue in office until another election shall be made.

There shall be four stated meetings in every year, to wit: on the first Mondays in January, April, July and October.

The place of meeting, and rules of the society,

shall be established, revoked or altered, and new members admitted, at any of the stated meetings, by a majority of the attending members, if they be a majority of those present, not being less than one-fourth of the whole. And, lest the powers given to the greater quorum of a majority of the whole, should at any time remain unexercised from insufficient attendance, the same may be exercised by a resolution of the lesser quorum of one-fourth, passed at a stated meeting: provided it be confirmed at the next stated meeting, by either a greater or lesser quorum, and in the meantime have no force.

Those who for two whole years shall not have attended any stated meeting shall, *ipso facto*, cease to be members. And to ascertain at all times who are the existing members, the names of those attending every meeting shall be regularly entered in the journals of the society.

The president shall preside at all meetings when present, and when absent, a president *pro tempore* may be appointed for that purpose *by those present.*

Observations on the Force and Obligation of the Common Law in the United States, on the occasion of Hardin's Case, in Kentucky. November 11th, 1812.

The *common law of England* is that system of law which was established in that country anterior to the Magna Charta, 9 H. 3, before which period no statutes are extant of record. It is used in contra-

distinction to the term *statute law*, which comprehends all the laws passed by their Parliament from the Magna Charta down to this day.

The term *common law* is used also in contradistinction to the *chancery*, as when we speak of the doctrines or courts of the common law, the doctrines or courts of chancery, and then include the *statute law* also. In which sense the term is used, must always depend on the subject matter.

On the settlement of the colonies now composing the United States, and the establishment of a legislature in each of them, that legislature, in some cases, finding that the enacting a complete code of laws, which should reach every transaction needing legislative regulation, would be far beyond their time and abilities, adopted, by an express act of their own, the laws of England as they stood at that date, comprehending the common law, statutes to that period, and the chancery law. In other cases, instead of adopting them by an express statute of their own, they considered themselves as having brought with them, and been, even on their passage, under the constant obligation of the laws of the mother country, and on their arrival they continued to practice them without any act of adoption, which practice or usage is evidence that there was an adoption by general consent. In the case of Connecticut, they did not adopt the common law of England at all as their basis, but declared by an act of their own, that the law of God, as it stood

revealed in the Old and New Testament, should be the basis of their laws, to be subject to such alterations as they should make. In all the cases where the common law, or laws of England, were adopted either expressly or tacitly, the legislatures held of course, and exercised the power of making additions and alterations.

As the different States were settled at very different periods, and the adoption for each State was the laws of England as they stood at the moment of the adoption by the State, it is evident that the system was adopted in 1607 by Virginia, was one thing, as by Pennsylvania was another thing, as by Georgia, in 1759, was still a different one. And when to this is added the very diversified modifications of the adoptive code, produced by the subsequent laws passed by the legislatures of the different States, the system of common law in force in any one State on the 24th of September, 1789, when Congress assumed the jurisdiction given them by the Constitution, was very different from the systems in force at the same moment in the several other States: that in all of these the common law was in force by virtue of the adoption of the State, express or tacit, and that it was not in force in Connecticut, because they had never adopted it.

Having settled, by way of preliminary, to what extent, and by what authority, the common law of England is the law of each of the States, we will proceed to consider how far, and by what authority;

it is the law of the United States as a national government.

By the Constitution, the General Government has jurisdiction in all cases arising under the Constitution, under the (constitutional) laws of the United States, and under treaties; in all cases, too, of ambassadors, of admiralty jurisdiction, where the United States is a party, between a State or its citizens, or another State or its citizens, or a foreign State or its citizens.

The General Government, then, had a right to take under their cognizance all these cases, and no others. This might have been done by Congress, by passing a complete code, assuming the whole field of their jurisdiction, and applying uniformly to every State, without any respect to the laws of that State. But, like the State legislatures, who had been placed before in a similar situation, they felt that it was a work of too much time and difficulty to be undertaken. Observing, therefore, that (except cases of piracy and murder on the high seas) all the cases within their jurisdiction must arise in some of the States, they declared by the act Sept. 24, 1789, c. 20, § 34, "That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise provide, shall be regarded as rules of decision in trials at *common law* in the courts of the United States in cases where they apply."

Here, then, Congress adopt for each State the

laws of that State; and among the laws so adopted were portions of the common law, greater or less in different States, and in force, not by any innate authority of its own, but by the adoption or enacting of it by the State authority.

Now what was the opinion to which this was opposed? Several judges of the General Government declared that "the common law of England is the unwritten law of the United States in their national and federal capacity." A State judge, in a printed work, lays it down as "certainly wrong to say that the judiciary power of the nation can exercise no authority but what depends for its principle on acts of the national legislature." And then quoting the preamble to the Constitution of the United States, which says that its object is "to insure domestic tranquillity, promote the general welfare," etc., he adds, that "what is here expressed is the *common law* of the whole country," and that "whatever is in opposition to it, whether treason, insurrection, sedition, murder, riot, assaults, batteries, thefts or robberies, may be punished as crimes, independent of any act of Congress." And opinions equivalent to this were declared by one party on the floor of Congress. This is the doctrine which the republicans declared heretical. They deny that Congress can pass any law not authorized by the Constitution, and that the judges can act on any law not authorized by Congress, or by the Constitution in very direct terms.

If the true doctrine then be, that certain portions of the common and statute law of England be in force in the different States by virtue of the adoption of that State, and in the federal courts of the same State by virtue of the adoption by Congress of the laws of that State within its limits, then whenever a case is presented to a federal court, they are to ask themselves the following questions:

1. Is this case within any of the definitions of jurisdiction given by the Constitution to the General Government? If it be decided that it is, then

2. Has Congress by any positive statute assumed cognizance of this case as permitted them by the Constitution? To determine this question, the judge must first look into the statutes of Congress generally; if he finds it not there, he must look into the laws of the State, as well as that portion of the English code which the State may have adopted, as the acts passed specially by the legislature. If the case be actually found provided for in these laws, another question still remains, viz.:

3. Is the law of the State applicable to the analogous case of the General Government? for it may happen that a law of the State, adapted perfectly to its own organization and local circumstances, may not tally with the different organization or circumstances of the federal government. If the difference be such as to defeat the application, it must be considered as a case unprovided for by Congress, and not cognizable in their courts. Just

so parts of the common or statute law of England are found by the State judges inapplicable to their State from a difference of circumstance. These differences of circumstance will be shaded off from nothing to direct inconsistence, and it will be only by many decisions on a great variety of cases that the line will at length be drawn.

Let us apply these questions to Hardin's case, which is simply this: Congress, by an express statute, 1802, c. 13, § 6, have made the murder of an Indian within the territory of the United States punishable by death. A murder is committed on an Indian in that territory. The murderers fly to Kentucky. They are demanded by the Governor of Indiana of the Governor of Kentucky; under whose authority our officer attempting to take them, they are protected by Hardin and others in arms.

1. Is this case within the jurisdiction of Congress? *Answer.* Congress having a right "to make all rules and regulations respecting the territory of the United States," have declared this to be a case of murder. As they can "make all laws necessary and proper for carrying their powers into execution," they can make the protecting a murderer criminal in any part of the United States.

2. Has Congress assumed cognizance of the offence of Hardin? We must first examine whether the act of Congress, 1790, c. 9, § 22, takes in this offence. Then whether the laws of Kentucky, common,

statute, or State law, as adopted by Congress, comprehend this offence.

3. Whether any difference of organization or other circumstance renders the law of Kentucky inapplicable to this offence, can be decided by those only who are particularly acquainted with that law.

Plan for Elementary Schools.

POPLAR FOREST, Sept. 9th, 1817.

DEAR SIR,—I promised you that I would put into the form of a bill my plan of establishing the Elementary Schools, without taking a cent from the Literary fund. I have had leisure at this place, to do this, and now send you the result. If twelve or fifteen hundred schools are to be placed under one general administration, an attention so divided will amount to a dereliction of them to themselves. It is surely better, then, to place each school at once under the care of those most interested in its conduct. In this way the Literary fund is left untouched to complete at once the whole system of education, by establishing a college in every district of about eighty miles square, for the second grade of education, to wit: languages, ancient and modern, and for the third grade a single University, in which the sciences shall be taught in their highest degree.

I should apologize, perhaps, for the style of this bill. I dislike the verbose and intricate style of the English statutes, and in our revised code I endeavored to restore it to the simple one of the ancient

statutes, in such original bills as I drew in that work. I suppose the reformation has not been acceptable, as it has been little followed. You, however, can easily correct this bill to the taste of my brother lawyers, by making every other word a "said" or "aforesaid," and saying everything over two or three times, so that nobody but we of the craft can untwist the diction, and find out what it means; and that, too, not so plainly but that we may conscientiously divide one half on each side. Mend it, therefore, in form and substance to the orthodox taste, and make it what it should be; or, if you think it radically wrong, try something else, and let us make a beginning in some way. No matter how wrong, experience will amend it as we go along, and make it effectual in the end.

I shall see you of course at our stated visitation, and hope all the gentlemen will consider Monticello as the rendezvous of the preceding day or evening.

I salute you with friendship and respect.

To Joseph C. Cabell.

An Act for Establishing Elementary Schools.

1. Be it enacted by the General Assembly of Virginia, that at the first session of the Superior Court in every county within this commonwealth, next ensuing the passage of this act, the judge thereof shall appoint three discreet and well-informed persons, residents of the county, and not being minis-

ters of the gospel [1] of any denomination, to serve as Visitors of the Elementary Schools in the said county; of which appointment the sheriff shall, within fifteen days thereafter, deliver a certificate, under the hand of the clerk of the said court, to each of the persons so appointed.

2. The said Visitors shall meet at the court-house of their county on the first county court day after they shall have received notice of their appointment, and afterwards at such times and places as they, or any two of them, with reasonable notice to the third, shall have agreed; and shall proceed to divide their county into wards,[2] by metes and bounds so designated as to comprehend each, about the number of militia sufficient for a company, and so also as not to divide, and throw into different wards [3]

[1] § 1. Ministers of the Gospel are excluded to avoid jealousy from the other sects, were the public education committed to the ministers of a particular one; and with more reason than in the case of their exclusion from the legislative and executive functions.

[2] § 2. This designation of the size of a ward is founded on these considerations: 1st. That the population which furnishes a company of militia will generally about furnish children enough for a school. 2d. That in most instances, at present, the militia captaincies being laid off compactly by known and convenient metes and bounds, many will be adopted without change, and others will furnish a canvass to work on and to reform. 3d. That these wards once established, will be found convenient and salutary aids in the administration of government, of which they will constitute the organic elements, and the first integral members in the composition of the military.

[3] § 3. The prohibition to place among different wards the lands of a single individual, held in a body, is, 1st. To save the proprietor from the perplexity of multiplied responsibilities; and 2. To prevent arbitrary and inconsistent apportionments, by different wardens, of the comparative values of the different portions of his lands in their respective wards.

the lands of any one person held in one body; which division into wards shall, within six months from the date of their appointment, be completely designated, published, and reported, by their metes and bounds, to the office of the clerk of the Superior Court, there to be recorded, subject, however, to such alterations, from time to time afterwards, as changes of circumstances shall, in the opinion of the said Visitors or their successors, with the approbation of the said court, render expedient.

3. The original division into wards being made, the Visitors shall appoint days for the first meeting of every ward, at such place as they shall name within the same, of which appointment notice shall be given at least two weeks before the day of meeting, by advertisement at some public place within the ward, requiring every free, white male citizen, of full age, resident within the ward, to meet at the place, and by the hour of twelve of the day so appointed, at which meeting some one of the Visitors shall also attend, and a majority of the said warders being in attendance, the Visitor present shall propose to them to decide by a majority of their votes, —1. The location of a school-house for the ward, and a dwelling-house for the teacher, (the owner of the ground consenting thereto). 2. The size and structure of the said houses; and 3. Whether the same shall be built by the joint labor of the warders, or by their pecuniary contributions; and also 4. To elect by a plurality of their votes a

warden, resident, who shall direct and superintend the said buildings, and be charged with their future care.

4. And if they decide that the said buildings[1] shall be erected by the joint labor of the warders, then all persons within the said ward liable to work in the highways, shall attend at the order of the warden, and, under his direction, shall labor thereon until completed, under the same penalties as provided by law to enforce labor on the highways. And if they decide on erection by pecuniary contributions, the residents and owners of property within the ward shall contribute toward the cost, each in proportion to the taxes they last paid to the State for their persons and for the same property: of which the sheriff or commissioners shall furnish a statement to the warden, who, according to the ratio of that statement, shall apportion and assess the quota of contribution for each, and be authorized to demand, receive, and apply the same to the purposes of the contribution, and to render account thereof, as in all other his pecuniary transactions for the school, to the Visitors; and on failure of payment by any contributor, the sheriff, on the

[1] § 4. It is presumed that the wards will generally build such log-houses for the school and teacher as they now do, and will join force and build them themselves, experience proving them to be as comfortable as they are cheap. Nor would it be advisable to build expensive houses in the country wards, which, from changes in their population, will be liable to changes of their boundaries and consequent displacements of their centre, drawing with it a removal of their school-house. In towns, better houses may be more safely built, or rented for both purposes.

order of the warden, shall collect and render the same under like powers and regulations as provided for the collection of the public taxes. And in every case it shall be the duty of the warden to have the buildings completed within six months from the date of his election.

5. It shall be the duty of the said Visitors to seek and to employ for every ward,[1] whenever the number and ages of its children require it, a person of

[1] § 5. Estimating eight hundred militia to a county, there will be twelve captaincies or wards in a county on an average. Suppose each of these, three years in every six, to have children enough for a school, who have not yet had three years' schooling; such a county will employ six teachers, each serving two wards by alternate terms. These teachers will be taken from the laboring classes, as they are now, to wit: from that which furnishes mechanics, overseers and tillers of the earth; and they will chiefly be the cripples, the weakly and the old, of that class, who will have been qualified for these functions by the ward schools themselves. If put on a footing then, for wages and subsistence, with the young and the able of their class, they will be liberally compensated; say with one hundred and fifty dollars wages and the usual allowance of meat and bread. The subsistence will probably be contributed in kind by the warders, out of their family stock. The wages alone will be a pecuniary tax of about nine hundred dollars. To a county, this addition would be of about one-fifth of the taxes we now pay to the State, or about one-fifth of one per cent. on every man's taxable property; if tax can be called that which we give to our children in the most valuable of all forms, that of instruction. Were those schools to be established on the public funds, and to be managed by the Governor and Council, or the commissioners of the Literary fund, brick houses to be built for the schools and teachers, high wages and subsistence given them, they would be badly managed, depraved by abuses, and would exhaust the whole Literary fund. While under the eye and animadversion of the wards, and the control of the wardens and Visitors, economy, diligence, and correctness of conduct, will be enforced, the whole Literary fund will be spared to complete the general system of education, by colleges in every district for instruction in the languages, and an university for the whole of the higher sciences;

good moral character, qualified to teach reading, writing, numeral arithmetic and geography, whose subsistence shall be furnished by the residents and proprietors of the ward, either in money or in kind, at the choice of each contributor, and in the ratio of their public taxes, to be apportioned and levied as on the failures before provided for. The teacher shall also have the use of the house and accommodations provided for him, and shall moreover receive annually such standing wages as the Visitors shall have determined to be proportioned on the residents and proprietors of the ward, and to be paid, levied and applied as before provided in other cases of pecuniary contribution.

and this, by an addition to our contributions almost insensible, and which, in fact, will not be felt as a burden, because applied immediately and visibly to the good of our children.

A question of some doubt might be raised on the latter part of this section, as to the rights and duties of society towards its members, infant and adult. Is it a right or a duty in society to take care of their infant members in opposition to the will of the parent? How far does this right and duty extend?—to guard the life of the infant, his property, his instruction, his morals? The Roman father was supreme in all these: we draw a line, but where?—public sentiment does not seem to have traced it precisely. Nor is it necessary in the present case. It is better to tolerate the rare instance of a parent refusing to let his child be educated, than to shock the common feelings and ideas by the forcible asportation and education of the infant against the will of the father. What is proposed here is to remove the objection of expense, by offering education gratis, and to strengthen parental excitement by the disfranchisement of his child while uneducated. Society has certainly a right to disavow him whom they offer, and are not permitted to qualify for the duties of a citizen. If we do not force instruction, let us at least strengthen the motives to receive it when offered.

6. At this school shall be received and instructed gratis, every infant of competent age who has not already had three years' schooling. And it is declared and enacted, that no person unborn or under the age of twelve years at the passing of this act, and who is *compos mentis*, shall, after the age of fifteen years, be a citizen of this commonwealth until he or she can read readily in some tongue, native or acquired.

7. To keep up a constant succession of Visitors, the judge of the Superior Court of every county shall at his first session in every bissextile year, appoint Visitors as before characterized, either the same or others, at his discretion. And in case of the death or resignation of any Visitor during the term of his appointment, or of his removal by the said judge for good cause, moral or physical, he shall appoint another to serve until the next bissextile appointment. Which Visitors shall have their first meeting at their court-house on the county court day next ensuing their appointment, and afterwards at such times and places as themselves or any two of them with reasonable notice to the third shall agree. But the election of wardens shall be annually, at the first meeting of the ward after the month of March, until which election the warden last elected shall continue in office.

8. All ward meetings shall be at their school-house, and on a failure of the meeting of a majority of the wardens on the call of a Visitor, or of their

warden, such Visitor or warden may call another meeting.

9. At all times when repairs or alterations of the buildings before provided for shall be wanting, it shall be the duty of the warden or of a Visitor, to call a ward meeting and to take the same measures towards such repairs or alterations as are herein before authorized for the original buildings.

10. When, on the application of any warden, authorized thereto by the vote of his ward, the judge of the Superior Court shall be of opinion that the contributors of any particular ward are disproportionably and oppressively overburdened with an unusual number of children of non-contributors of their ward, he may direct an order to the county court to assess in their next county levy the whole or such part of the extra burden as he shall think excessive and unreasonable, to be paid to the warden for its proper use, to which order the said county court is required to conform.

11. The said teachers shall, in all things relating to the education and government of their pupils, be under the direction and control of the Visitors; but no religious reading, instruction or exercise, shall be prescribed or practiced inconsistent with the tenets of any religious sect or denomination.

12. Some one of the Visitors, once in every year at least, shall visit the several schools: shall inquire into the proceedings and practices thereat: shall examine the progress of the pupils, and give to

those who excel in reading, in writing, in arithmetic, or in geography, such honorary marks and testimonies of approbation, as may encourage and excite to industry and emulation.

13.[1] All decisions and proceedings of the Visitors relative to the original designation of wards at any time before the buildings are begun, or changes of wards at any time after, to the quantum of subsistence, or wages allowed to the teacher, and to the rules prescribed to him for the education and government of his pupils, shall be subject to be controlled and corrected by the judge of the Superior Court of the county, on the complaint of any individual aggrieved or interested.

And for the establishment of colleges whereat the youth of the commonwealth may, within convenient distances from their homes, receive a higher grade of education,

14. Be it further enacted as follows: The several counties of this commonwealth shall be distributed into nine collegiate districts, whereof one shall be composed of the counties of Accomac, Northampton, Lancaster, Richmond, Westmoreland, Middlesex, Essex, Matthews, Gloucester, King and Queen, King William, Elizabeth City, Warwick, York, James City, New Kent, and Charles City; one other of the counties of Princess Anne, Norfolk, Norfolk borough, Nansemond, Isle of Wight, Southampton,

[1] Sections 14 to 42 inclusive were omitted from the Congressional Edition of Jefferson's writings.

Surry, Prince George, Sussex, and Greeneville; one other of the counties of Fairfax, Loudon, King George, Stafford, Prince William, Fauquier, Culpeper, Madison, Caroline, and Spotsylvania; one other of the counties of Hanover, City of Richmond, Goochland, Louisa, Fluvanna, Powhatan, Cumberland, Buckingham, Orange, Albemarle, Nelson, Amherst, Augusta, and Rockbridge; one other of the counties of Chesterfield, town of Petersburg, Dinwiddie, Brunswick, Amelia, Nottoway, Lunenburg, Mecklenburg, Prince Edward, Charlotte, and Halifax; one other of the counties of Campbell, Pittsylvania, Bedford, Franklin, Henry, Patrick, Botetourt, and Montgomery; one other of the counties of Frederick, Jefferson, Berkeley, Hampshire, Shenandoah, Hardy, Rockingham, and Pendleton; one other of the counties of Monongalia, Brooke, Ohio, Randolph, Harrison, Wood, and Mason; and one other of the counties of Bath, Greenbriar, Kanawha, Cabell, Giles, Monroe, Tazewell, Wythe, Grayson, Washington, Russell, and Lee.

15. Within three months after the passing of this act, the president and directors of the literary fund, who shall henceforth be called the Board of Public Instruction, shall appoint one fit person in every county, in each of the districts, who, with those appointed in the other counties in the same district, shall compose the Board of Visitors for the college of that district; and shall, within four months

after passing this act, cause notice to be given to each individual so appointed, prescribing to them a day, within one month thereafter, and a place within their district, for their first meeting, with supplementary instructions for procuring a meeting subsequently, in the event of failure at the time first appointed.

16. The said Visitors, or so many of them as, being a majority, shall attend, shall appoint a rector, of their own body, who shall preside at their meetings, and a secretary to record and preserve their proceedings; and shall proceed to consider of the site for a college most convenient for their district, having regard to the extent, population and other circumstances, and within the term of six months from the passing of this act shall report the same to the Board of Public Instruction, with the reasons on which each site is preferred; and if any minority of two or more members prefer any other place, the same shall be reported, with the reasons for and against the same.

17. Within seven months after the passing of this act the said Board of Public Instruction shall determine on such of the sites reported as they shall think most eligible for the college of each district, shall notify the same to the said Visitors, and shall charge them with the office of obtaining from the proprietor with his consent, the proper grounds for the building, and its appurtenances, either by donation or purchase; or if his consent, on reason-

able terms, cannot be obtained, the clerk of the county, wherein the site is, shall, on their request, issue and direct to the sheriff of the same county a writ of ad quod damnum, to ascertain by a jury the value of the grounds selected, and to fix their extent by metes and bounds, so, however, as not to include the dwelling house, or buildings appurtenant, the curtilege, gardens or orchards of the owner; which writ shall be executed according to the ordinary forms prescribed by law in such cases; and shall be returned to the same clerk to be recorded: Provided, that in no case, either of purchase or valuation by a jury, more grounds be located than of the value of $500; which grounds, if by donation or purchase, by the deed of the owner, or if by valuation of a jury, shall, by their inquest, become vested in the said Board of Public Instruction, as trustees for the commonwealth, and for the uses and purposes of a college of instruction.

18. On each of the sites so located shall be erected one or more substantial buildings—the walls of which shall be of brick or stone, with two school rooms, and four rooms for the accommodation of the professors, and with sixteen dormitories in or adjacent to the same, each sufficient for two pupils, and in which no more than two shall be permitted to lodge, with a fire place in each, and the whole in a comfortable and decent style, suitable to their purpose.

19. The plan of the said buildings, and their

appurtenances, shall be furnished or approved by the said Board of Public Instruction, and that of the dormitories shall be such as may conveniently receive additions from time to time. The Visitors shall have all the powers which are necessary and proper for carrying them into execution, and shall proceed in their execution accordingly. Provided, that in no case shall the whole cost of the said buildings and appurtenances of any one college exceed the sum of $7,500.

20. The college of the district first in this act described, to wit: of Accomac, etc., shall be called the Wythe College, or the College of the District of Wythe; that of the second description, to wit: Princess Anne, etc., shall be called the ————————; that of the third description, to wit: Fairfax, etc., shall be called the ———————— ; that of the fourth description, to wit: Hanover, etc., shall be called the ————————; that of the fifth description, to wit: Chesterfield, etc., shall be called the ————————; that of the sixth description, to wit: Campbell, etc., shall be called ————————; that of the seventh description, to wit: Frederick, etc., shall be called the ————————; that of the eighth description, to wit: Monongalia, etc., shall be called the ————————; and that of the ninth description, to wit: Bath, etc., shall be called the ————————.

21. In the said colleges shall be taught the Greek, Latin, French, Spanish, Italian and German languages, English grammar, geography, ancient and

modern, the higher branches of numerical arithmetic, the mensuration of land, the use of the globes, and the ordinary elements of navigation.

22. To each of the said colleges shall be appointed two professors, the one for teaching Greek, Latin, and such other branches of learning, before described, as he may be qualified to teach, and the other for the remaining branches thereof, who shall each be allowed the use of the apartments provided for him, and a standing salary of $500 yearly, to be drawn from the literary fund, with such tuition fee from each pupil as the Visitors shall establish.

23. The said Visitors shall be charged with the preservation and repair of the buildings, the care of the ground and appurtenances for which, and other necessary purposes, they may employ a steward and competent laborers; they shall have power to appoint and remove the professors, to prescribe their duties, and the course of education to be pursued; they shall establish rules for the government and discipline of the pupils, for their sustenance and board, if boarded in the college, and for their accommodations, and the charges to which they shall be subject for the same, as well as the rent for the dormitories they occupy. They may draw from the literary fund such moneys as are hereby charged on it for their institution. And, in general, they shall direct and do all matters and things which, not being inconsistent with the laws of the land, to them shall seem most expedient for

promoting the purposes of the said institution; which several functions may be exercised by them in the form of by-laws, resolutions, orders, instructions, or otherwise, as they shall deem proper.

24. The rents of the dormitories, the profits of boarding the pupils, donations and other occasional resources shall constitute the fund, and shall be at their disposal for the necessary purposes of the said institution, and not otherwise provided for; and they shall have authority to draw on the said Board of Public Instruction for the purchase or valuation money of the site of their college, for the cost of the buildings and improvements authorized by law, and for the standing salaries of the professors herein allowed—for the administration of all which they may appoint a bursar.

25. They shall have two stated meetings in the year, at their college, on the first Mondays of April and October, and occasional meetings at the same place, and at such other times, as they shall appoint; giving due notice thereof to every individual of their board.

26. A majority of them shall constitute a quorum for business, and on the death or resignation of a member or on his removal by the Board of Public Instruction, or out of the county from which he was appointed, the said Board shall appoint a successor, resident in the same county.

27. The Visitors of every collegiate district shall be a body politic and corporate, to be called the

Visitors of the College, by name, for which they are appointed, with capacity to plead, or be impleaded, in all courts of justice, and in all cases interesting to their college, which may be subject of legal cognizance and jurisdiction, which pleas shall not abate by the determination of their office of all or any of them, but shall stand revived in the name of their successors; and they shall be capable in law, and in trust for their college, of receiving subscriptions and donations, real and personal, as well from bodies corporate, or persons associated, as from private individuals.

28. Some member, or members, of the Board of Visitors, to be nominated by the said Board, or such other persons as they shall nominate, shall, once in every year, at least, visit the college of their district, enquire into the proceedings and practices thereat, examine the progress of the pupils, and give to those who excel in any branch of learning prescribed for the college, such honorary marks and testimonies of approbation as may encourage or excite to industry and emulation.

29. The decisions and proceedings of the said Board of Visitors shall be subject to control and correction by the Board of Public Instruction, either on the complaint of any individual, aggrieved or interested, or on the proper motion of the said Board.

30. On every 29th day of February, or, if that be Sunday, then on the next or earliest day there-

after, on which a meeting can be effected, the Board of Public Instruction shall be in session, and shall appoint, in every county of each district, a Visitor, resident therein, either the same before appointed, or another, at their discretion, to serve until the next ensuing 29th of day February, duly and timely notifying to them their appointment, and prescribing a day for their first meeting at the college of their district, after which, their stated meetings shall be at their college, on the first Mondays of April and October, annually; and their occasional meetings at the same place, and at such times as themselves shall appoint, due notice thereof being given to every member of their board.

Utrum horum?

And for establishing in a central and healthy part of the State an University wherein all the branches of useful science may be taught, Be it enacted as follows:

31. Within the limits of the county of ——— there shall be established an University, to be called the University of Virginia; and so soon as may be after the passage of this act the Board of Public Instruction shall appoint eight fit persons to constitute the Board of Visitors for the said University; and shall forthwith give notice to each individual so appointed, prescribing to them a day for their first meeting at the court-house of the said

And for establishing in a central and healthy part of the State an University wherein all the branches of useful science may be taught, Be it further enacted as follows:

31. Whensoever the Visitors of the Central College in Albemarle, authorized thereto by the consent in writing of the subscribers of the major part of the amount subscribed to that institution, shall convey or cause to be conveyed to the Board of Public Instruction, for the use of this commonwealth, all the lands, buildings, property and rights of the said college in possession, in interest, or in action, (save only so much as may dis-

county, with supplementary instructions for procuring a meeting subsequently in the event of failure at the first time appointed.

32. The said Visitors, or so many of them as, being a majority, shall attend, shall appoint a rector of their own body, who shall preside at their meetings, and a secretary to record and preserve their proceedings, and shall proceed to enquire into and select the most eligible site for the University, and to obtain from the proprietor, with his consent, the proper grounds for the buildings and appurtenances, either by donation or purchase, or, if his consent on reasonable terms cannot be obtained, the clerk of the county shall, on their request, issue and direct to the sheriff of the county a writ of ad quod damnum to ascertain by a jury the value of the grounds

charge their engagements then existing,) the same shall be thereupon vested in this commonwealth, and shall be appropriated to the institution of an University to be called the University of Virginia, which shall be established on the said lands. The said Board of Public Instruction shall thereupon forthwith appoint eight fit persons who shall compose the Board of Visitors for the government of the University, notifying thereof the persons so appointed, and prescribing to them a day for their first meeting at Charlottesville, with supplementary instructions for procuring a meeting subsequently in the event of failure at the time first appointed.

32. The said Visitors, or so many of them, as, being a majority, shall attend, shall appoint a rector of their own body to preside at their meetings, and a secretary to record and preserve their proceedings, and shall proceed to examine into the state of the property conveyed as aforesaid, shall make an inventory of the same, specifying the items whereof it consists, shall notice the buildings and other improvements already made, and those which are in progress, shall take measures for their completion, shall consider what others may be necessary in addition, and of the best plan for effecting the same, with estimates of the probable cost, and shall make report

selected, and to fix their extent by metes and bounds, so however as not to include the dwelling house or buildings appurtenant, the curtilage, gardens or orchards of the owner; which writ shall be executed according to the ordinary forms prescribed by the law in such cases, and shall be returned to the same clerk to be recorded: Provided, That in no case, either of purchase or valuation by a jury, shall more grounds be located than of the value of $2,000; which grounds, if by donation or purchase, shall, by the deed of the owner, or if by valuation of a jury, shall by their inquest, become vested in the Board of Public Instruction aforesaid, as trustees for the commonwealth for the uses and purposes of an University.

33. A plan of the buildings and appurtenances necessary and proper for an University being furnished or approved by the Board of Public Instruction, in which that of the dormitories shall be such as may conveniently admit additions from time to time, the Visitors shall have all the powers which shall be necessary and proper for carrying them into execution, and shall proceed in their execution accordingly.

of the whole to the said Board of Public Instruction, which is authorized to approve, negative or modify any of the measures so proposed by the said Visitors.

33. The said measures being approved or modified, the Visitors shall have all the powers relative thereto which shall be necessary or proper for carrying them into execution and shall proceed in their execution accordingly.

34. In the said University shall be taught history and geography, ancient and modern; natural philosophy, agriculture, chemistry and the theories of

medicine; anatomy, zoology, botany, mineralogy and geology; mathematics, pure and mixed; military and naval science; ideology, ethics, the law of nature and of nations; law, municipal and foreign; the science of civil government and political economy; languages, rhetoric, belles lettres, and the fine arts generally; which branches of science shall be so distributed and under so many professorships, not exceeding ten, as the Visitors shall think most proper.

35. Each professor shall be allowed the use of the apartments and accommodations provided for him, and such standing salary, not exceeding $1,000 yearly, as the Visitors shall think proper, to be drawn from the literary fund, with such tuition fees from the students as the Visitors shall establish.

36. The said Visitors shall be charged with the erection, preservation and repair of the buildings, the care of the grounds and appurtenances, and of the interests of the University generally; they shall have power to appoint a bursar, employ a steward and all other necessary agents; to appoint and remove professors; to prescribe their duties, and the course of education to be pursued; to establish rules for the government and discipline of the students, for their subsistence, board and accommodations, if boarded by the University, and the charges to which they shall be subject for the same, as well as for the dormitories they occupy; to provide and control the duties and proceedings

of all officers, servants and others, with respect to the buildings, land, appurtenances, and other property and interests of the University; to draw from the literary fund such moneys as are hereby charged on it for this institution; and in general to direct and do all matters and things which, not being inconsistent with the laws of the land, to them shall seem most expedient for promoting the purposes of the said institution; which several functions may be exercised by them in the form of by-laws, rules, resolutions, orders, instructions, or otherwise, as they shall deem proper.

37. They shall have two stated meetings in the year, to wit: on the first Mondays in April and October, and occasional meetings at such other times as they shall appoint, due notice thereof being given to every individual of their Board, which meetings shall be held at the said University; and on the death or resignation of a member, or on his removal by the Board of Public Instruction, or change of habitation to a greater than his former distance from the University, the said Board shall appoint a successor.

38. The Visitors of the said University shall be a body politic and corporate under the style and title of the Visitors of the University of Virginia with capacity to plead or be impleaded in all courts of justice, and in all cases interesting to their college, (sic) which may be the subjects of legal cognizance and jurisdiction, which pleas shall not abate by the

determination of their office, but shall stand revived in the name of their successors; and they shall be capable in law, and in trust for their college, of receiving subscriptions and donations, real and personal, as well from bodies corporate or persons associated, as from private individuals.

39. Some member or members of the Board of Visitors, to be nominated by the said Board, or such other person as they shall nominate, shall, once in every year at least, visit the said University, enquire into the proceedings and practices thereat, examine the progress of the students, and give to those who excel in any branch of science there taught such honorary marks and testimonies of approbation as may encourage and excite to industry and emulation.

40. All decisions and proceedings of the Visitors shall be subject to control and direction by the Board of Public Instruction, either on the complaint of any individual aggrieved or interested, or on the proper motion of the said Board.

41. On every 29th day of February, or, if that be Sunday, then on the next or earliest day thereafter on which a meeting can be effected, the said Board of Public Instruction shall in be session, and shall appoint Visitors for the said University, either the same or others, at their discretion, to serve until the 29th day of February next ensuing, duly and timely notifying to them their appointment, and prescribing a day for their first meeting at the

University, after which their stated meetings shall be on the first Mondays of April and October annually, and their occasional meetings at the same place, and at such times as themselves shall appoint, due notice thereof being given to every member of their Board.

(NOTE.—If the Central College be adopted for the University, the following section may be added: "Provided, that nothing in this act contained shall suspend the proceedings of the Visitors of the said Central College of Albemarle; but, for the purpose of expediting the objects of the said institution, they shall be authorized, under the control of the Board of Public Instruction, to continue the exercise of their functions until the first meeting of the Visitors of the University.")

And to avail the commonwealth of those talents and virtues which nature has sown as liberally among the poor as rich, and which are lost to their country by the want of means for their cultivation, Be it further enacted as follows:

42. On the 29th day of February, or, if that be Sunday, then on the next day, the Visitors of the ward-schools in every county shall meet at the court-house of their county, and after the most diligent and impartial observation and enquiry of the boys who have been three years at the ward-schools, and whose parents are too poor to give them a collegiate education, shall select from among them some one of the most promising and sound under-

standing, who shall be sent to the first meeting of the Visitors of their collegiate district, with such proofs as the case requires and admits, for the examination and information of that Board; who, from among the candidates so offered from the several counties of their district, shall select two of the most sound and promising understanding, who shall be admitted to their college, and there be maintained and educated five years at the public expense, under such rules and limitations as the Board of Public Instruction shall prescribe; and at the end of the said five years the said Collegiate Visitors shall select that one of the two who shall, on their most diligent and impartial enquiry and best information, be adjudged by them to be of the most sound and promising understanding and character, and most improved by their course of education, who shall be sent on immediately thereafter to the University, there to be maintained and educated in such branches of the sciences taught there as are most proper to qualify him for the calling to which his parents or guardians may destine him; and to continue at the said University three years at the public expense, under such rules and limitations as the Board of Public Instruction shall prescribe. And the expenses of the persons so to be publicly maintained and educated at the colleges and University shall be drawn by their respective Visitors from the literary fund.

The solemn Declaration and Protest of the Commonwealth of Virginia, on the Principles of the Constitution of the United States of America, and on the Violations of them.

We, the General Assembly of Virginia, on behalf, and in the name of the people thereof, do declare as follows:

The States in North America which confederated to establish their independence of the government of Great Britain, of which Virginia was one, became, on that acquisition, free and independent States, and as such, authorized to constitute governments, each for itself, in such form as it thought best.

They entered into a compact, (which is called the Constitution of the United States of America,) by which they agreed to unite in a single government as to their relations with each other, and with foreign nations, and as to certain other articles particularly specified. They retained at the same time, each to itself, the other rights of independent government, comprehending mainly their domestic interests.

For the administration of their federal branch, they agreed to appoint, in conjunction, a distinct set of functionaries, legislative, executive, and judiciary, in the manner settled in that compact: while to each, severally, and of course, remained its original right of appointing, each for itself, a separate set of functionaries, legislative, executive, and judiciary, also, for administering the domestic branch of their respective governments.

These two sets of officers, each independent of the other, constitute thus a *whole* of government, for each State separately; the powers ascribed to the one, as specifically made federal, exercised over the whole, the residuary powers, retained to the other, exercisable exclusively over its particular State, foreign herein, each to the others, as they were before the original compact.

To this construction of government and distribution of its powers, the Commonwealth of Virginia does religiously and affectionately adhere, opposing, with equal fidelity and firmness, the usurpation of either set of functionaries on the rightful powers of the other.

But the federal branch has assumed in some cases, and claimed in others, a right of enlarging its own powers by constructions, inferences, and indefinite deductions from those directly given, which this assembly does declare to be usurpations of the powers retained to the independent branches, mere interpolations into the compact, and direct infractions of it.

They claim, for example, and have commenced the exercise of a right to construct roads, open canals, and effect other internal improvements within the territories and jurisdictions exclusively belonging to the several States, which this assembly does declare has not been given to that branch by the constitutional compact, but remains to each State among its domestic and unalienated powers, exercisable within itself and by its domestic authorities alone.

This assembly does further disavow and declare to be most false and unfounded, the doctrine that the compact, in authorizing its federal branch to lay and collect taxes, duties, imposts and excises to pay the debts and provide for the common defence and general welfare of the United States, has given them thereby a power to do whatever *they* may think, or pretend, would promote the general welfare, which construction would make that, of itself, a complete government, without limitation of powers; but that the plain sense and obvious meaning were, that they might levy the taxes necessary to provide for the general welfare, by the various acts of power therein specified and delegated to them, and by no others.

Nor is it admitted, as has been said, that the people of these States, by not investing their federal branch with all the means of bettering their condition, have denied to themselves any which may effect that purpose; since, in the distribution of these means they have given to that branch those which belong to its department, and to the States have reserved separately the residue which belong to them separately. And thus by the organization of the two branches taken together, have completely secured the first object of human association, the full improvement of their condition, and reserved to themselves all the faculties of multiplying their own blessings.

Whilst the General Assembly thus declares the

rights retained by the States, rights which they have never yielded, and which this State will never voluntarily yield, they do not mean to raise the banner of disaffection, or of separation from their sister States, co-parties with themselves to this compact. They know and value too highly the blessings of their Union as to foreign nations and questions arising among themselves, to consider every infraction as to be met by actual resistance. They respect too affectionately the opinions of those possessing the same rights under the same instrument, to make every difference of construction a ground of immediate rupture. They would, indeed, consider such a rupture as among the greatest calamities which could befall them; but not the greatest. There is yet one greater, submission to a government of unlimited powers. It is only when the hope of avoiding this shall become absolutely desperate, that further forebearance could not be indulged. Should a majority of the co-parties, therefore, contrary to the expectation and hope of this assembly, prefer, at this time, acquiescence in these assumptions of power by the federal member of the government, we will be patient and suffer much, under the confidence that time, ere it be too late, will prove to them also the bitter consequences in which that usurpation will involve us all. In the meanwhile, we will breast with them, rather than separate from them, every misfortune, save that only of living under a government of unlimited

powers. We owe every other sacrifice to ourselves, to our federal brethren, and to the world at large, to pursue with temper and perseverance the great experiment which shall prove that man is capable of living in society, governing itself by laws self-imposed, and securing to its members the enjoyment of life, liberty, property, and peace; and further to show, that even when the government of its choice shall manifest a tendency to degeneracy, we are not at once to despair but that the will and the watchfulness of its sounder parts will reform its aberrations, recall it to original and legitimate principles, and restrain it within the rightful limits of self-government. And these are the objects of this Declaration and Protest.

Supposing then, that it might be for the good of the whole, as some of its co-States seem to think, that the power of making roads and canals should be added to those directly given to the federal branch, as more likely to be systematically and beneficially directed, than by the independent action of the several States, this commonwealth, from respect to these opinions, and a desire of conciliation with its co-States, will consent, in concurrence with them, to make this addition, provided it be done regularly by an amendment of the compact, in the way established by that instrument, and provided also, it be sufficiently guarded against abuses, compromises, and corrupt practices, not only of possible, but of probable occurrence.

And as a further pledge of the sincere and cordial attachment of this commonwealth to the union of the whole, so far as has been consented to by the compact called "The Constitution of the United States of America," (constructed according to the plain and ordinary meaning of its language, to the common intendment of the time, and of those who framed it;) to give also to all parties and authorities, time for reflection and for consideration, whether, under a temperate view of the possible consequences, and especially of the constant obstructions which an equivocal majority must ever expect to meet, they will still prefer the assumption of this power rather than its acceptance from the free will of their constituents; and to preserve peace in the meanwhile, we proceed to make it the duty of our citizens, until the legislature shall otherwise and ultimately decide, to acquiesce under those acts of the federal branch of our government which we have declared to be usurpations, and against which, in point of right, we do protest as null and void, and never to be quoted as precedents of right.

We therefore do enact, and be it enacted by the General Assembly of Virginia, that all citizens of this commonwealth, and persons and authorities within the same, shall pay full obedience at all times to the acts which may be passed by the Congress of the United States, the object of which shall be the construction of post roads, making canals of navigation, and maintaining the same in any

part of the United States, in like manner as if said acts were, *totidem verbis*, passed by the legislature of this commonwealth.

Thoughts on Lotteries. February, 1826.

It is a common idea that games of chance are immoral. But what is chance? Nothing happens in this world without a cause. If we know the cause, we do not call it chance; but if we do not know it, we say it was produced by chance. If we see a loaded die turn its lightest side up, we know the cause, and that it is not an effect of chance; but whatever side an unloaded die turns up, not knowing the cause, we say it is the effect of chance. Yet the morality of a thing cannot depend on our knowledge or ignorance of its cause. Not knowing why a particular side of an unloaded die turns up, cannot make the act of throwing it, or of betting on it, immoral. If we consider games of chance immoral, then every pursuit of human industry is immoral; for there is not a single one that is not subject to chance, not one wherein you do not risk a loss for the chance of some gain. The navigator, for example, risks his ship in the hope (if she is not lost in the voyage) of gaining an advantageous freight. The merchant risks his cargo to gain a better price for it. A landholder builds a house on the risk of indemnifying himself by a rent. The hunter hazards his time and trouble in the hope of killing game. In all these pursuits, you take some

one thing against another which you hope to win. But the greatest of all gamblers is the farmer. He risks the seed he puts into the ground, the rent he pays for the ground itself, the year's labor on it, and the wear and tear of his cattle and gear, to win a crop, which the chances of too much or too little rain, and general uncertainties of weather, insects, waste, etc., often make a total or partial loss. These, then, are games of chance. Yet so far from being immoral, they are indispensable to the existence of man, and every one has a natural right to choose for his pursuit such one of them as he thinks most likely to furnish him subsistence. Almost all these pursuits of chance produce something useful to society. But there are some which produce nothing, and endanger the well-being of the individuals engaged in them, or of others depending on them. Such are games with cards, dice, billiards, etc. And although the pursuit of them is a matter of natural right, yet society, perceiving the irresistible bent of some of its members to pursue them, and the ruin produced by them to the families depending on these individuals, consider it as a case of insanity, *quoad hoc*, step in to protect the family and the party himself, as in other cases of insanity, infancy, imbecility, etc., and suppress the pursuit altogether, and the natural right of following it. There are some other games of chance, useful on certain occasions, and injurious only when carried beyond their useful bounds. Such are

insurances, lotteries, raffles, etc. These they do not suppress, but take their regulation under their own discretion. The insurance of ships on voyages is a vocation of chance, yet useful, and the right to exercise it therefore is left free. So of houses against fire, doubtful debts, the continuance of a particular life, and similar cases. Money is wanting for a useful undertaking, as a school, etc., for which a direct tax would be disapproved. It is raised therefore by a lottery, wherein the tax is laid on the willing only, that is to say, on those who can risk the price of a ticket without sensible injury for the possibility of a higher prize. An article of property, insusceptible of division at all, or not without great diminution of its worth, is sometimes of so large value as that no purchaser can be found while the owner owes debts, has no other means of payment, and his creditors no other chance of obtaining it but by its sale at a full and fair price. The lottery is here a salutary instrument for disposing of it, where many run small risks for the chance of obtaining a high prize. In this way the great estate of the late Colonel Byrd (in 1756) was made competent to pay his debts, which, had the whole been brought into the market at once, would have overdone the demand, would have sold at half or quarter the value, and sacrificed the creditors, half or three-fourths of whom would have lost their debts. This method of selling was formerly very much resorted to, until it was thought to nourish

too much a spirit of hazard. The legislature were therefore induced not to suppress it altogether, but to take it under their own special regulation. This they did for the first time by their act of 1769, c. 17, before which time every person exercised the right freely; and since which time, it is made unlawful but when approved and authorized by a special act of the legislature.

Since then this right of sale, by way of lottery, has been exercised only under the jurisdiction of the legislature. Let us examine the purposes for which they have allowed it in practice, not looking beyond the date of our independence.

1. It was for a long time an item of the standing revenue of the State.

1813. c. 1, § 3. An act imposing taxes for the support of government, and c. 2, § 10.
1814. Dec. c. 1, § 3. 1814. Feb. c. 1, § 3. 1818. c. 1, § 1.
1819. c. 1. 1820. c. 1.

This, then, is a declaration by the nation, that an act was not immoral, of which they were in the habitual use themselves as a part of the regular means of supporting the government; the tax on the vender of tickets was their share of the profits, and if their share was innocent, his could not be criminal.

2. It has been abundantly permitted to raise money by lottery for the purposes of schools; and

in this, as in many other cases, the lottery has been permitted to retain a part of the money (generally from ten to fifteen per cent.) for the use to which the lottery has been applied. So that while the adventurers paid one hundred dollars for tickets, they received back eighty-five or ninety dollars only in the form of prizes, the remaining ten or fifteen being the tax levied on them, with their own consent. Examples are,

1784. c. 34. Authorizing the city of Williamsburg to raise £2,000 for a grammar school.
1789. c. 68. For Randolph Academy, £1,000.
1789. c. 73. For Fauquier Academy, £500.
c. 74. For the Fredericksburg Academy, £4,000.
1790. c. 46. For the Transylvanian Seminary, £500
46. For the Southampton Academy, £300.
1796. c. 82. For the New London Academy.
1803. c. 49. For the Fredericksburg Charity School.
c. 50. For finishing the Strasburg Seminary.
c. 58. For William and Mary College.
c. 62. For the Bannister Academy.
c. 79. For the Belfield Academy.
c. 82. For the Petersburg Academy.
1804 c. 40. For the Hot Springs Seminary.
c. 76. For the Stevensburg Academy.
c. 100. For William and Mary College.
1805. c. 24. For the Rumford Academy.

1812. c. 10. For the Literary Fund. To sell the privilege for $30,000 annually, for seven years.

1816. c. 80. For Norfolk Academy, $12,000.
Norfolk Female Society, $2,000.
Lancastrian School, $6,000.

3. *The next object of lotteries has been rivers.*

1790. c. 46. For a bridge between Gosport and Portsmouth, £400.

1796. c. 83. For clearing Roanoke River.

1804. c. 62. For clearing Quantico Creek.

1805. c. 42. For a toll bridge over Cheat River.

1816. c. 49. For the Dismal Swamp, $50,000.

4. *For roads.*

1790. c. 46. For a road to Warminster, £200.
For cutting a road from Rockfish gap to Scott's and Nicholas's landing, £400.

1796. c. 85. To repair certain roads.[1]

1803. c. 60. For improving roads to Snigger's and Ashby's gaps.

c. 61. For opening a road to Brock's gap.

c. 65. For opening a road from the town of Monroe to Sweet Springs and Lewisburg.

c. 71. For improving the road to Brock's gap.

[1] The acts not being at hand, the sums allowed are not known.

1805. c. 5. For improving the road to Clarksburg.
c. 26. For opening a road from Monongalia Glades to Fishing Creek.
1813. c. 44. For opening a road from Thornton's gap.

5. *Lotteries for the benefit of counties.*

1796. c. 78. To authorize a lottery in the county of Shenandoah.
c. 84. To authorize a lottery in the county of Gloucester.

6. *Lotteries for the benefit of towns.*

1782. c. 31. Richmond, for a bridge over Shockoe, amount not limited.
1789. c. 75. Alexandria, to pave its streets, £1,500.
1790. c. 46. do. do. £5,000.
1796. c. 79. Norfolk, one or more lotteries authorized.
c. 81. Petersburg, a lottery authorized.
1803. c. 12. Woodstock, do.
c. 48. Fredericksburg, for improving its main street.
c. 73. Harrisonburg, for improving its streets.

7. *Lotteries for religious congregations.*

1785. c. 111. Completing a church in Winchester. For rebuilding a church in the parish of Elizabeth River.
1791. c. 69. For the benefit of the Episcopal society.

1790. c. 46. For building a church in Warminster, £200.
in Halifax, £200.
in Alexandria, £500.
in Petersburg, £750.
in Shepherdstown, £250.

8. *Lotteries for private societies.*

1790. c. 46. For the Amicable Society in Richmond, £1,000.

1791. c. 70. For building a Freemason's Hall in Charlotte, £750.

9. *Lotteries for the benefit of private individuals.* [*To raise money for them.*]

1796. c. 80. For the sufferers by fire in the town of Lexington.

1781. c. 6. For completing titles under Byrd's lottery.

1790. c. 46. To erect a paper mill in Staunton, £300.
To raise £2,000 for Nathaniel Twining.

1791. c. 73. To raise £4,000 for William Tatham, to enable him to complete his geographical work.
To enable ——— to complete a literary work.[1]

[1] I found such an act, but not noting it at the time, I have not been able to find it again. But there is such an one.

We have seen, then, that every vocation in life is subject to the influence of chance; that so far from being rendered immoral by the admixture of that ingredient, were they abandoned on that account, man could no longer subsist; that, among them, every one has a natural right to choose that which he thinks most likely to give him comfortable subsistence; but that while the greater number of these pursuits are productive of something which adds to the necessaries and comforts of life, others again, such as cards, dice, etc., are entirely unproductive, doing good to none, injury to many, yet so easy, and so seducing in practice to men of a certain constitution of mind, that they cannot resist the temptation, be the consequences what they may; that in this case, as in those of insanity, idiocy, infancy, etc., it is the duty of society to take them under its protection, even against their own acts, and to restrain their right of choice of these pursuits, by suppressing them entirely; that there are others, as lotteries particularly, which, although liable to chance also, are useful for many purposes, and are therefore retained and placed under the discretion of the legislature, to be permitted or refused according to the circumstances of every special case, of which they are to judge; that between the years 1782 and 1820, a space of thirty-eight years only, we have observed seventy cases, where the permision of them has been found useful, by the legislature, some of which are in progress at

this time. These cases relate to the emolument of the whole State, to local benefits of education, of navigation, of roads, of counties, towns, religious assemblies, private societies, and of individuals under particular circumstances which may claim indulgence or favor. The latter is the case now submitted to the legislature, and the question is, whether the individual soliciting their attention, or his situation, may merit that degree of consideration which will justify the legislature in permitting him to avail himself of the mode of selling by lottery, for the purpose of paying his debts.

That a fair price cannot be obtained by sale in the ordinary way, and in the present depressed state of agricultural industry, is well known. Lands in this State will now sell for more than a third or fourth of what they would have brought a few years ago, perhaps at the very time of the contraction of the debts for which they are now to be sold. The low price in foreign markets, for a series of years past, of agricultural produce, of wheat generally, of tobacco most commonly, and the accumulation of duties on the articles of consumption not produced within our State, not only disable the farmer or planter from adding to his farm by purchase, but reduces him to sell his own, and remove to the western country, glutting the market he leaves, while he lessens the number of bidders. To be protected against this sacrifice is the object of the present application, and whether the applicant has any

particular claim to this protection, is the present question.

Here the answer must be left to others. It is not for me to give it. I may, however, more readily than others, suggest the offices in which I have served. I came of age in 1764, and was soon put into the nomination of justice of the county in which I live, and at the first election following I became one of its representatives in the legislature.

I was thence sent to the old Congress.

Then employed two years with Mr. Pendleton and Mr. Wythe, on the revisal and reduction to a single code of the whole body of the British statutes, the acts of our Assembly, and certain parts of the common law.

Then elected Governor.

Next to the Legislature, and to Congress again.

Sent to Europe as Minister Plenipotentiary.

Appointed Secretary of State to the new government.

Elected Vice-President, and

President. And lastly, a Visitor and Rector of the University. In these different offices, with scarcely any interval between them, I have been in the public service now sixty-one years; and during the far greater part of the time, in foreign countries or in other States. Every one knows how inevitably a Virginia estate goes to ruin, when the owner is so far distant as to be unable to pay attention to it himself; and the more especially, when the line of

his employment is of a character to abstract and alienate his mind entirely from the knowledge necessary to good, and even to saving management.

If it were thought worth while to specify any particular services rendered, I would refer to the specification of them made by the legislature itself in their Farewell Address, on my retiring from the Presidency, February, 1809. [This will be found in 2 Pleasant's Collection, page 144.] There is one, however, not therein specified, the most important in its consequences, of any transaction in any portion of my life; to wit, the head I personally made against the federal principles and proceedings, during the administration of Mr. Adams. Their usurpations and violations of the Constitution at that period, and their majority in both Houses of Congress, were so great, so decided, and so daring, that after combating their aggressions, inch by inch, without being able in the least to check their career, the republican leaders thought it would be best for them to give up their useless efforts there, go home, get into their respective legislatures, embody whatever of resistance they could be formed into, and if ineffectual, to perish there as in the last ditch. All, therefore, retired, leaving Mr. Gallatin alone in the House of Representatives, and myself in the Senate, where I then presided as Vice-President. Remaining at our posts, and bidding defiance to the brow-beatings and insults by which they endeavored to drive us off also, we kept the mass of republicans

in phalanx together, until the legislature could be brought up to the charge; and nothing on earth is more certain, than that if myself particularly, placed by my office of Vice-President at the head of the republicans, had given way and withdrawn from my post, the republicans throughout the Union would have given up in despair, and the cause would have been lost forever. By holding on, we obtained time for the legislature to come up with their weight; and those of Virginia and Kentucky particularly, but more especially the former, by their celebrated resolutions, saved the Constitution at its last gasp. No person who was not a witness of the scenes of that gloomy period, can form any idea of the afflicting persecutions and personal indignities we had to brook. They saved our country however. The spirits of the people were so much subdued and reduced to despair by the X Y Z imposture, and other stratagems and machinations, that they would have sunk into apathy and monarchy, as the only form of government which could maintain itself.

If legislative services are worth mentioning, and the stamp of liberality and equality, which was necessary to be imposed on our laws in the first crisis of our birth as a nation, was of any value, they will find that the leading and most important laws of that day were prepared by myself, and carried chiefly by my efforts; supported, indeed, by able and faithful coadjutors from the ranks of

the House, very effective as seconds, but who would not have taken the field as leaders.

The prohibition of the further importation of slaves was the first of these measures in time.

This was followed by the abolition of entails, which broke up the hereditary and high-handed aristocracy, which, by accumulating immense masses of property in single lines of families, had divided our country into two distinct orders, of nobles and plebeians.

But further to complete the equality among our citizens so essential to the maintenance of republican government, it was necessary to abolish the principle of primogeniture. I drew the law of descents, giving equal inheritance to sons and daughters, which made a part of the revised code.

The attack on the establishment of a dominant religion, was first made by myself. It could be carried at first only by a suspension of salaries for one year, by battling it again at the next session for another year, and so from year to year, until the public mind was ripened for the bill for establishing religious freedom, which I had prepared for the revised code also. This was at length established permanently, and by the efforts chiefly of Mr. Madison, being myself in Europe at the time that work was brought forward.

To these particular services, I think I might add the establishment of our University, as principally my work, acknowledging at the same time, as I do,

the great assistance received from my able colleagues of the Visitation. But my residence in the vicinity threw, of course, on me the chief burden of the enterprise, as well of the buildings as of the general organization and care of the whole. The effect of this institution on the future fame, fortune and prosperity of our country, can as yet be seen but at a distance. But an hundred well-educated youths, which it will turn out annually, and ere long, will fill all its offices with men of superior qualifications, and raise it from its humble state to an eminence among its associates which it has never yet known; no, not in its brightest days. That institution is now qualified to raise its youth to an order of science unequalled in any other State; and this superiority will be the greater from the free range of mind encouraged there, and the restraint imposed at other seminaries by the shackles of a domineering hierarchy, and a bigoted adhesion to ancient habits. Those now on the theatre of affairs will enjoy the ineffable happiness of seeing themselves succeeded by sons of a grade of science beyond their own ken. Our sister States will also be repairing to the same fountains of instruction, will bring hither their genius to be kindled at our fire, and will carry back the fraternal affections which, nourished by the same *alma mater*, will knit us to them by the indissoluble bonds of early personal friendships. The good Old Dominion, the blessed mother of us all, will then raise her head with pride

among the nations, will present to them that splendor of genius which she has ever possessed, but has too long suffered to rest uncultivated and unknown, and will become a centre of ralliance to the States whose youth she has instructed, and, as it were, adopted.

I claim some share in the merits of this great work of regeneration. My whole labors, now for many years, have been devoted to it, and I stand pledged to follow it up through the remnant of life remaining to me. And what remuneration do I ask? Money from the treasury? Not a cent. I ask nothing from the earnings or labors of my fellow citizens. I wish no man's comforts to be abridged for the enlargement of mine. For the services rendered on all occasions, I have been always paid to my full satisfaction. I never wished a dollar more than what the law had fixed on. My request is, only to be permitted to sell my own property freely to pay my own debts. To *sell* it, I say, and not to *sacrifice* it, not to have it gobbled up by speculators to make fortunes for themselves, leaving unpaid those who have trusted to my good faith, and myself without resource in the last and most helpless stage of life. If permitted to sell it in a way which will bring me a fair price, all will be honestly and honorably paid, and a competence left for myself, and for those who look to me for subsistence. To sell it in a way which will offend no moral principle, and expose none to risk but the willing, and those wishing to be permitted to take

the chance of gain. To give me, in short, that permission which you often allow to others for purposes not more moral.

Will it be objected, that although not evil in itself, it may, as a precedent, lead to evil? But let those who shall quote the precedent bring their case within the same measure. Have they, as in this case, devoted three-score years and one of their lives, uninterruptedly, to the service of their country? Have the times of those services been as trying as those which have embraced our Revolution, our transition from a colonial to a free structure of government? Have the stations of their trial been of equal importance? Has the share they have borne in holding their new government to its genuine principles, been equally marked? And has the cause of the distress, against which they seek a remedy, proceeded, not merely from themselves, but from errors of the public authorities, disordering the circulating medium, over which they had no control, and which have, in fact, doubled and trebled debts, by reducing, in that proportion, the value of the property which was to pay them? If all these circumstances, which characterize the present case, have taken place in theirs also, then follow the precedent. Be assured, the cases will be so rare as to produce no embarrassment, as never to settle into an injurious habit. The single feature of a sixty years' service, as no other instance of it has yet occurred in our country, so it probably never

may again. And should it occur, even once and again, it will not impoverish your treasury, as it takes nothing from that, and asks but a simple permission, by an act of natural right, to do one of moral justice.

Thomas Jefferson's Will.

I, Thomas Jefferson, of Monticello, in Albemarle, being of sound mind, and in my ordinary state of health, make my last will and testament in manner and form as follows:

I give to my grandson Francis Eppes, son of my dear deceased daughter Mary Eppes, in fee simple, all that part of my lands at Poplar Forest lying west of the following lines, to wit: beginning at Radford's upper corner, near the double branches of Bear Creek, and the public road, and running thence in a straight line to the fork of my private road, near the barn; thence along that private road, (as it was changed in 1817,) to its crossing of the main branch of North Tomahawk Creek; and from that crossing, in a direct line over the main ridge which divides the North and South Tomahawk, to the South Tomahawk, at the confluence of two branches where the old road to the Waterlick crossed it, and from that confluence up the northernmost branch, (which separate M'Daniels' and Perry's fields,) to its source; and thence by the shortest line to my western boundary. And having,

in a former correspondence with my deceased son-in-law John W. Eppes, contemplated laying off for him, with remainder to my grandson Francis, a certain portion in the southern part of my lands in Bedford and Campbell, which I afterwards found to be generally more indifferent than I had supposed, and therefore determined to change its location for the better; now to remove all doubt, if any could arise on a purpose merely voluntary and unexecuted, I hereby declare that what I have herein given to my said grandson Francis, is instead of, and not additional to, what I had formerly contemplated. I subject all my other property to the payment of my debts in the first place. Considering the insolvent state of the affairs of my friend and son-in-law Thomas Mann Randolph, and that what will remain of my property will be the only resource against the want in which his family would otherwise be left, it must be his wish, as it is my duty, to guard that resource against all liability for his debts, engagements or purposes whatsoever, and to preclude the rights, powers, and authorities over it, which might result to him by operation of law, and which might, independently of his will, bring it within the power of his creditors, I do hereby devise and bequeath all the residue of my property, real and personal, in possession or in action, whether held in my own right, or in that of my dear deceased wife, according to the powers vested in me by deed of settlement for that purpose, to my grandson Thomas J. Ran-

dolph, and my friends Nicholas P. Trist and Alexander Garrett, and their heirs, during the life of my said son-in-law Thomas M. Randolph, to be held and administered by them, in trust, for the sole and separate use and behoof of my dear daughter Martha Randolph, and her heirs; and aware of the nice and difficult distinction of the law in these cases, I will further explain by saying, that I understand and intend the effect of these limitations to be, that the legal estate and actual occupation shall be vested in my said trustees, and held by them in base fee, determinable on the death of my said son-in-law, and the remainder during the same time be vested in my said daughter and her heirs, and of course disposable by her last will, and that at the death of my said son-in-law, the particular estate of the trustees shall be determined, and the remainder, in legal estate, possession, and use, become vested in my said daughter and her heirs, in absolute property forever. In consequence of the variety and indescribableness of the articles of property within the house at Monticello, and the difficulty of inventorying and appraising them separately and specifically, and its inutility, I dispense with having them inventoried and appraised; and it is my will that my executors be not held to give any security for the administration of my estate. I appoint my grandson Thomas Jefferson Randolph, my sole executor during his life, and after his death I constitute executors my friends Nicholas P. Trist

and Alexander Garrett, joining to them my daughter Martha Randolph, after the death of my said son-in-law Thomas M. Randolph. Lastly, I revoke all former wills by me heretofore made; and in witness that this is my will, I have written the whole with my own hand on two pages, and have subscribed my name to each of them this sixteenth day of March, one thousand eight hundred and twenty-six.

I, Thomas Jefferson, of Monticello, in Albemarle, make and add the following codicil to my will, controlling the same so far as its provisions go:

I recommend to my daughter Martha Randolph, the maintenance and care of my well beloved sister Anne Scott, and trust confidently that from affection to her, as well as for my sake, she will never let her want a comfort. I have made no specific provision for the comfortable maintenance of my son-in-law Thomas M. Randolph, because of the difficulty and uncertainty of devising terms which shall vest any beneficial interest in him, which the law will not transfer to the benefit of his creditors, to the destitution of my daughter and her family, and disablement of her to supply him: whereas, property placed under the exclusive control of my daughter and her independent will, as if she were a feme sole, considering the relation in which she stands both to him and his children, will be a certain resource against want for all.

I give to my friend James Madison, of Montpellier, my gold-mounted walking staff of animal horn, as a token of the cordial and affectionate friendship which for nearly now an half century, has united us in the same principles and pursuits of what we have deemed for the greatest good of our country.

I give to the University of Virginia my library, except such particular books only, and of the same edition, as it may already possess, when this legacy shall take effect; the rest of my said library, remaining after those given to the University shall have been taken out, I give to my two grandsons-in-law Nicholas P. Trist and Joseph Coolidge. To my grandson Thomas Jefferson Randolph, I give my silver watch in preference of the golden one, because of its superior excellence. My papers of business going of course to him, as my executor, all others of a literary or other character I give to him as of his own property.

I give a gold watch to each of my grandchildren, who shall not have already received one from me, to be purchased and delivered by my executor to my grandsons, at the age of twenty-one, and granddaughters at that of sixteen.

I give to my good, affectionate, and faithful servant Burwell, his freedom, and the sum of three hundred dollars, to buy necessaries to commence his trade of glazier, or to use otherwise, as he pleases.

I give also to my good servants John Hemings and Joe Fosset, their freedom at the end of one year

after my death; and to each of them respectively, all the tools of their respective shops or callings; and it is my will that a comfortable log-house be built for each of the three servants so emancipated on some part of my lands convenient to them with respect to the residence of their wives, and to Charlottesville and the University, where they will be mostly employed, and reasonably convenient also to the interests of the proprietor of the lands, of which houses I give the use of one, with a curtilage of an acre to each, during his life or personal occupation thereof.

I give also to John Hemings the service of his two apprentices Madison and Eston Hemings, until their respective ages of twenty-one years, at which period respectively, I give them their freedom; and I humbly and earnestly request of the legislature of Virginia a confirmation of the bequest of freedom to these servants, with permission to remain in this State, where their families and connections are, as an additional instance of the favor, of which I have received so many other manifestations in the course of my life, and for which I now give them my last, solemn, and dutiful thanks.

In testimony that this is a codicil to my will of yesterday's date, and that it is to modify so far the provisions of that will, I have written it all with my own hand in two pages, to each of which I subscribe my name, this seventeenth day of March, one thousand eight hundred and twenty-six.

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AND

A COMPREHENSIVE ANALYTICAL INDEX

ALBERT ELLERY BERGH
EDITOR

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JEFFERSON'S CONTRIBUTION TO A FREE PRESS.

Perhaps the strongest utterance of faith in the power of a free, honest and liberty-loving press, made by man, was Jefferson's declaration: "Were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter."

Was this too high praise of newspapers? History furnishes the answer: it was the press and the printed letters of Payne, Jefferson, Madison, Adams and others, read in every nook and corner of the colonies, which aroused the people of America to secure independence, rather than the thrilling eloquence of the Patrick Henrys, heard by small audiences; and almost every right won for the people since Guttenberg has owed its success to the agitation, argument and exhortation of newspaper and pamphlet. Indeed, but for the invention of the art of printing and its wise use by men like Jefferson, who were devoted to liberty, the flood-tide of freedom would have been centuries later in reaching the shores of the New World. In a letter from Paris on Shays's Rebellion, which shows that

he was decades ahead of his time, Jefferson gave expression to his high estimate of the value of newspapers as moulders of sound public opinion. He wrote:

"The people are the only censors of their governors; and even their errors will tend to keep them to the true principles of their institution. To punish these errors too severely would be to suppress the only safeguard of the public liberty. The way to prevent these irregular interpositions of the people is to give them full information of their affairs, through the channel of public papers, and to contrive that those papers should penetrate the whole mass of the people. The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide, whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter. But I should mean that every man should receive those papers, and be capable of reading them."

In 1786, to Dr. James Currie, he wrote: "Our liberty depends on the freedom of the press and that cannot be limited without being lost." In 1808, in answer to an address, he wrote: "The liberty of speaking and writing guards our other liberties." To General Washington, in 1792, he wrote: "No government ought to be without censors; and where the press is free, no one ever will."

Mr. Jefferson, more than any man of his day, appreciated the mighty power of the printed page. Indeed it may be doubted whether any man of any age appreciated so truly its capacity to create public sentiment. He more than any of his famous contemporaries understood that the man imbibes what he reads more than what he hears. But more and better than that: he recognized the priceless value of a free press, just as he felt the necessity of freedom to worship God without restraint. Freedom was to him a religion. He hated anything that hindered man's liberty to think, to write, to speak, to do. His life was largely given to unfettering the mind of man. "I have sworn," he wrote, "upon the altar of God, eternal hostility against every form of tyranny over the mind of man."

The statute for religious liberty, drawn by him and enacted by the Virginia Assembly, was the first step in the line of carrying out the oath he had taken "upon the altar." His whole life shows that he was never "disobedient to the heavenly vision" which inspired that oath. He deemed it one of the three achievements of his life worthy to be carved on the granite shaft, which he directed to be placed above his grave. He acquired his deep-seated hostility to religious bigotry and to church establishment—(nearly always twin brothers)—when he saw dissenting preachers carried to jail for what Patrick Henry called "the crime of preaching the gospel." The sense of outrage that a man should be impris-

oned for not accepting a creed which he could not believe,—that seemed to his tolerant mind the unpardonable sin—the sin that loomed above all other transgressions. His resentment toward those who would compel men to worship according to dictation from priest or politician was so deep that the pendulum of his mind swung in the opposite direction so far, that his intolerance for church establishment and clerical persecution and religious tyranny—(the trinity of abortions upon Christianity)—was construed into hostility to religion. His letters show, whether he accepted the orthodox creed or not, such a construction does injustice to his reverent admiration of the teachings of Jesus.

Tucker, in his biography of Jefferson, says, "without having either gained a battle, made a speech, or founded a sect, he raised himself from the ranks of private life to the highest civil honors of his country." Jefferson's "Autobiography" negatives the idea that he never made a speech, for, asked by a member of the Annapolis Congress, how he "could sit in silence, hearing so much false reasoning which a word should refute," Mr. Jefferson says: "I observed to him, that to refute was indeed easy, but to silence was impossible; that in measures brought forward by myself, *I took the laboring oar*, as was incumbent on me." But, having no special talent and no taste for public speaking, he leaned upon the press as the medium through which to reach the American people. In truth he had an

abhorrence of much speaking, and in his "Autobiography," cited the example of Washington and Franklin as illustrating that short speeches accomplish more than long ones, for he says, "I served with General Washington in the Legislature of Virginia, before the Revolution, and during it with Dr. Franklin in Congress. I never heard either of them speak ten minutes at a time, nor to any but the main point, which was to decide the question." He recognized, too, that it was the people, rather than the legislators, whose opinion made permanent statutes and changed constitutions, and his appeal was always to them. They could be reached only through the press, and he found a large portion of the press controlled by those who did not believe in the ability of men to govern themselves,—papers so hostile to popular government, as advocated by Jefferson, that they actually favored the sedition law, a law that destroyed their own real independence. One of the most difficult tasks of Jefferson's life was to secure the establishment of papers that would combat error, and to preserve their freedom from every form of tyranny when they were preaching the doctrine of liberty which he had sworn to uphold. He did this, too, in a day when a free press was regarded in official circles and by most of the world's leaders as sure to destroy stable government. His faith in a free press was so supreme that it did literally "remove mountains."

Before he secured the passage of the statute of

religious liberty in Virginia, in law it was a crime not to baptize children into the Episcopal Church, to permit Quakers to live in the colony, to fail to pay compulsory tithes to the State Church. Impassioned orators did indeed arouse hostility to the religious "tyranny over the human mind," but it remained for the never-flagging and systematic zeal of Jefferson to secure the repeal of the laws that made such religious slavery possible in the New World.

The Declaration of Independence, written by the inspired pen of Jefferson, was the Magna Charta of American freedom, the corner stone of the temple of free thought, free speech, free press. "It sounded through the land like Roderick's bugle-note in the Highlands; it rallied the wavering and cheered the firm; it removed doubt and fixed a purpose; it was the guide which, leaving by-paths and cross-cuts, got into the plain, straight road and said to the wandering hosts, 'Come on'; it settled the debate, removed the doubt, fixed the resolution; it burned the bridge; it crossed the dead line; it took the route toward that bourne from which no rebel returns save with a rope around his neck; it was a call to nationality, a watch-word, a rallying point; its official statement of ultimate aim and object becoming the pillar of fire which led the people through the darkest night of their dread journey toward the Republic." Jefferson regarded the authorship of that document worthy a place on

his monument, because it ended civic "tyranny over the human mind."

The University of Virginia, founded to teach and illustrate the right of man to think and to think without "restraint or interference," was the third accomplishment of his life that the sage of Monticello deemed important enough to have carved on his tomb-stone. His devotion to public education was a child of his oath of "eternal hostility against every form of tyranny over the mind of man." Many extracts from his public papers and private letters would illustrate this truth. Three will suffice. To Dupont de Nemours he wrote, "Enlighten the people generally, and tyranny and oppression of body and mind will vanish like evil spirits at the dawn of day." To Madison he wrote, "*Above all things* I hope the education of the common people will be attended to. * * * Educate and inform the whole mass of the people. Enable them to see that it is to their interest to preserve peace and order, and they will preserve them. * * * They are the only sure reliance for the preservation of our liberty." To George White he wrote, "Preach a crusade against ignorance. Establish and improve the law for educating the common people. * * * The tax which is paid for this purpose is not more than the thousandth part of what will be paid to kings, priests, and nobles, who will rise up among us, if we leave the people in ignorance."

These three achievements made straight the path

for the service he rendered to the free press in America. Indeed they themselves were greatly contributors to the creation of a free press in the early days of the Republic, when population was widely scattered and when the large number of unlettered voters depended more for political direction upon the stump-speech than upon the newspaper. And, as they were the forerunners of an uncensored press, that press in turn guarded and protected civic, religious and intellectual freedom. While Patrick Henry stirred and moved his small audiences, which went forth from his impassioned orations ready to die for liberty, Jefferson, through his writings, was instilling the same vital truths into the minds and hearts of thousands who could never see him or hear his voice.

While Congress was framing the Federal Constitution, Jefferson was minister to France, succeeding Dr. Franklin, America's first great editor. He was distressed when he learned that the new Constitution contained no bill of rights, no guarantee to freedom of religion and the liberty of the press. A biographer of Jefferson says: "The chief grounds of his objections to the Federal Constitution as framed were the omission of a bill of rights, providing, clearly and without the aid of sophism, for the freedom of religion, freedom of the press, security against standing armies, restriction of monopolies, trial by jury, and against all suspension of *habeas corpus*." He would, in all probability,

have declared against its ratification, but for his profound conviction of the immediate need of a stable government and his faith that the people would add amendments incorporating the suggestions in his letter to Mr. Madison. Instead of opposing its ratification, he did what was better. He advised those who looked to him for counsel that four States should refuse to ratify until the amendments suggested by him were adopted. North Carolina, by a majority of an even hundred, in its Convention at Hillsborough, passed a resolution reciting that it had "thought proper neither to ratify now nor reject the Constitution proposed for the government of the United States," and a bill of rights and certain amendments were presented by Mr. Willie Jones, a devoted disciple of Jefferson. In presenting them Mr. Jones said: "I have, in my proposition, adopted, word for word, the Virginia amendments, with one or two additional ones." The North Carolina amendment on the freedom of the press was in these words: "That the people have a right to freedom of speech, and of writing and publishing their sentiments; that freedom of the pen is one of the greatest bulwarks of liberty and ought not to be violated." There is a tradition in North Carolina that Willie Jones had a letter, never printed, from Thomas Jefferson, advising the course pursued by the majority of the Convention, which he read to the 184 men, man by man, who voted to stay out of the Union until the amend-

ments drafted by Jefferson were adopted. So great was the influence of Mr. Jefferson in North Carolina —an influence that happily abides to this day—that no argument or persuasion of Iredell or Davie could change a vote after the letter of Mr. Jefferson had been passed from hand to hand.

Jefferson was the inspiration of the action taken by the seven States that demanded an amendment for religious liberty and the freedom of the press. He actually wrote or inspired amendments to the Constitution which North Carolina and Rhode Island insisted upon "previous to ratification." The amendment to the Federal Constitution guaranteeing freedom of the press, which was incorporated in the fundamental charter of the Republic, is in these words:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble and petition the government for a redress of grievances."

For this amendment and the healthy agitation that secured it, all men who believe in a free press will ever hold Jefferson in grateful esteem. It was contended that this amendment was wholly unnecessary—"useless surplusage," as one Federalist declared,—but the prophetic eye of the liberty-loving sage of Monticello looked from Paris across the Atlantic and saw that the influences that dis-

trusted the people would muzzle the press, unless the Constitution forged chains that would deny power "abridging the freedom of speech or of the press." In 1799, evidently having the fear of some sedition law in his mind, Jefferson wrote to Elbridge Gerry, "I am for freedom of the press, and against all violations of the Constitution to silence by force and not by reason the complaints or criticisms, just or unjust, of our citizens against the conduct of their agents."

Mr. Jefferson, when insisting upon the amendment denying the right of Congress to make laws "abridging the freedom of the press," did not see the exact form which hostility to a free press would take, but he knew intuitively it would come in some form if those who distrusted the capacity of the people to govern themselves, obtained control of the Federal Government. He had not long to wait before his prophecy of a war upon a free press, backed by all the power of the national administration and accompanied by usurpations hitherto not dreamed of, was employed to destroy the freedom of the press. Long before the sedition law he had seen the hostility to a free press in the Federalist leaders. Some of the anti-Federalist papers did not even spare Washington, in their attacks upon what they called "the monocrats," and, smarting under their criticisms, the President gave expression to his objection to an unrestrained press. At that time, 1794, writing to Madison, who was then in

Virginia, Jefferson said: "It is wonderful, indeed, that the President should have permitted himself to be the organ of such an attack on the freedom of discussion, the freedom of writing and publishing."

The Sedition law, employed to strengthen the Adams administration, proved its undoing, thanks to the promptness and the splendid courage of Mr. Jefferson and his associates. He felt that should the people submit to the restrictions of the press in the Sedition law, the hope of free government was lost, and he aroused himself from his quiet life to make a supreme struggle to preserve the liberty for which the American people in the Revolution had ventured all that men hold dear. Federalism seemed firmly entrenched. It had become fashionable to sneer at the rule of the people, to contemn free discussion and equality, and in all official positions there was a feeling that the only good government was such as the few would frame and carry on. The men who went to sleep under Washington's safe rule were rudely awakened by the passage of the Alien and Sedition laws—acts that jeopardized the very life of the young Republic. Foreseeing that the Federalists would seek to stifle the voice of the press, Jefferson wrote to Madison in 1798: "This summer is the season for systematic energies and sacrifices. The engine is the press. Every man must lay his purse and his pen under contribution. As to the former, it is possible I may be obliged to assume something for you. As to the

latter, let me pray and beseech you to set apart a certain portion of every day to write what may be proper for the public."

Jefferson's arraignment of the law sounded like a bell in the night—as clear as the first shot at Lexington or Moore's Creek. Men who were engrossed in mending their private fortunes and who had not cared for political life, sprung into leadership to resist the encroachments upon the spirit of the Declaration of Independence and the annulment of the very letter of the amendment which Jefferson had forced into the Constitution. To show the purpose and the danger in the Sedition act, it will be necessary to quote only the following portion of section 2:—

"And be it further enacted, that if any shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the government of the United States, or either House of the Congress of the United States with an intent to defame the said government or either House of the said Congress, or the President, or to bring them or either of them into contempt or disrepute, or to excite against them, or either or any of them the hatred of the good people of the United States, etc., then such persons, being thereof convicted before any court of the

United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

That law had hardly been promulgated before Mr. Jefferson pronounced it unconstitutional and commenced the most far-reaching and vigorous onslaught upon it. He not only aroused the people of America, but he brought to bear the power of enlightened public sentiment in England and on the Continent to produce a world-wide condemnation so strong that, added to the indignant protests of their constituents, the law-makers would be forced to repeal it. To John Taylor in 1798 he wrote: "I enclose you a column, cut out of a London paper to show you that the English, though charmed with our making their enemies our enemies, yet blush and weep over our Sedition law."

The first and the only national campaign upon the issue of appealing to the people to protect the freedom of the press, guaranteed in the Federal Constitution, was inaugurated by Mr. Jefferson against the Alien and Sedition laws. He not only inspired the spirit of the criticisms upon these dangerous laws in the newspapers, but he wrote the famous Kentucky Resolutions that for years engrossed the public mind to the exclusion of all other topics. In the Kentucky Resolutions, upon the question of the attempt to shackle the press by the Federal Government, Mr. Jefferson wrote:—

"It is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that the 'powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people; and * * * no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or the people.' * * * There was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech, and of the press, may be abridged without lessening their useful freedom and how far those abuses which cannot be separated from their use should be tolerated, rather than the use be destroyed. And thus also they guarded against all abridgment by the United States of the freedom of religious opinions and exercises and retained to themselves the right of protecting the same as this State (Kentucky), by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference. * * * In addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no law respecting an establishment of religion,

or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence and under the same words, the freedom of religion, of speech and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods, and defamation, equally with heresy and false religion, are withheld from the cognizance of Federal tribunals. * * * Therefore, the act of Congress of the United States passed on the 14th day of July, 1798, intitulated "An Act in addition to the act intitulated 'An Act for the punishment of certain crimes against the United States'," which does abridge the freedom of the press, is not law, but is altogether void, and of no force." * * * "If these acts (the Alien and Sedition acts) should stand, these conclusions would flow from them: That the General Government may place any act that they think proper on the list of crimes and punish it themselves whether enumerated or not enumerated by the Constitution as cognizable to the President, or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicion may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and exact description of the inhabitants of these States being by his precedent reduced to outlaws, to the absolute dominion of one man, and the barrier of the Constitution thus swept away

from us all, no rampart now remains against the passions and the powers of the majority in Congress to protect from a like exportation, or other more grievous punishment, the minority of the same body, the legislatures, judges, governors, and councellors of the States, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the States and people, or who for other causes, good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or to be thought dangerous to his or their election, or other interests, public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment but the citizen will soon follow or rather, has already followed, for already has a Sedition Act marked him as his prey: that these and successive acts of the same character, unless arrested at the threshold, necessarily drive these States into revolution and blood, and will furnish new calumnies against republican government, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron."

The Virginia Resolutions, drawn by Mr. Madison and approved by Mr. Jefferson, condemned the Alien and Sedition laws, and, with reference to the attack on the freedom of the press, employed these words: "exercises in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the

amendments thereto—a power which, more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed *the only effectual guardian of every other right.*"

Jefferson, seeing the coming of the Sedition law before it was enacted, was gathering ammunition with which to attack it before it was on the statute books. Writing to Mr. Madison April 26th, 1798, he prophesied thus: "One of the war party, in a fit of passion, declared sometime ago they would pass a citizen bill, an alien bill, and a sedition bill; accordingly, some days ago, Coit laid a motion on the table of the House of Representatives for modifying the citizen law. Their threats point at Gallatin, and it is believed they will endeavor to reach him by this bill. Yesterday Mr. Hillhouse laid on the table of the Senate a motion for giving power to send away suspected aliens. This is understood to be meant for Volney and Collot. But it will not stop there when it gets in a course for execution. There is now only wanting, to accomplish the whole declaration before mentioned, a sedition bill, which we shall certainly soon see proposed." In November of the same year he wrote to John Taylor: "For the present, I should be for resolving the Alien and Sedition laws to be against the Constitution and merely void, and for addressing the other States

to obtain similar declarations: and I would not do anything at this moment which should commit us further, but reserve ourselves to shape our future measures, or no measures, by the events which may happen."

In the same year he wrote to Madison of the threat of an alien and sedition bill, and of the sedition bill said, "The object of that, is the suppression of the Whig presses, Bache's has been particularly named. That paper and also Carey's totter for want of subscriptions. We would really exert ourselves to procure them, for if these papers fail, republicanism will be entirely brow-beaten."

In June, 1799, seeing the fulfillment of his prophecy he commenced the agitation for the repeal of the law that abridged the freedom of speech and wrote to Madison as follows: "They have brought into the lower House a sedition bill, which, among other enormities, undertakes to make printing certain matters criminal, though one of the amendments to the Constitution has so expressly taken religion, printing presses, etc., out of their coercion. Indeed this bill, and the alien bill are both so palpably in the teeth of the Constitution as to show they mean to pay no respect to it."

He followed closely every act and speech attending the passage of this objectionable law and all subsequent debates on it, and gave this pen-picture in a letter to Mr. Madison in February, 1799, of a scene in the House of Representatives: "Yesterday

witnessed a scandalous scene in the House of Representatives. It was the day for taking up the report of their committee against the Alien and Sedition laws, etc. They (the Federalists) held a caucus and determined that a word should not be spoken on their side, in answer to anything that should be said on the other. Gallatin took up the Alien, and Nicholas the Sedition law; but after a little while of common silence, they began to enter into loud conversations, laugh, cough, etc., so that the last hour of these gentlemen's speaking they must have had the lungs of a vendue master to have been heard. Livingston, however, attempted to speak. But after a few sentences, the Speaker called him to order, and told him what he was saying was not to the question. It was impossible to proceed. The question was carried in favor of the report, 52 to 48; the real strength of the two parties is 56 to 50."

Again, to Madison in the same year, he wrote, "Petitions and remonstrances against the Alien and Sedition laws are coming from different parts of New York, New Jersey, and Pennsylvania. * * * I am in hopes Virginia will stand so countenanced by those States as to repress the wishes of the government to coerce her, which they might venture on if they supposed she would be left alone. Firmness on our part, but a passive firmness, is the true course. Anything rash or threatening might check the favorable dispositions of these Middle States,

and rally them again around the measures which are ruining us."

With the instinct of the political seer he looks into the future and sees that if the opponents of that law content themselves with firm and orderly protests, the attempt to abridge the freedom of the press will destroy the Federal party. Writing to Edward Pendleton in February, 1799, he said, "In Pennsylvania, we fear that the ill-designing may produce insurrection (against the Alien and Sedition Laws). Nothing could be so fatal. Anything like force would check the progress of the public opinion, and rally them around the government. This is not the kind of opposition the American people will permit. But keep away all show of force, and they will bear down the evil propensities of the government, by the constitutional means of election and petition." In the same month he wrote thus to Archibald Stuart: "Several parts of this State (Pennsylvania) are so violent that we fear an insurrection. This will be brought about by some if they can. It is the only thing we have to fear. The appearance of an attack of force against the government would check the present current of the Middle States, and rally them around the government; whereas if suffered to go on it will pass on to a reformation of abuses."

He believed that the Alien and Sedition Law was but the first step in converting the republic into a virtual monarchy, for in 1799 he wrote to S. T.

Mason: "I consider these laws as merely an experiment on the American mind, to see how far it will bear an avowed violation of the Constitution. If this goes down, we shall immediately see attempted another act of Congress, declaring that the President shall continue in office during life, reserving to another occasion the transfer of the succession to the heirs, and the establishment of the Senate for life. At least, this may be the aim of the Oliverians, while Monk and the Cavaliers (who are perhaps the strongest), may be playing their game for the restoration of his most gracious Majesty, George III. That these things are in contemplation, I have no doubt; nor can I be confident of their failure, after the dupery of which our countrymen have shown themselves susceptible."

When Jefferson was elected to the Presidency the Alien and Sedition laws were speedily repealed and all persons convicted or awaiting trial under them were at once pardoned or released. Referring to his actions, with reference to persons convicted under the Sedition law, he wrote to Mrs. John Adams in July, 1804, "I discharged every person under punishment or prosecution under the Sedition law, because I considered and now consider that law to be a nullity, as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image; and that it was as much my duty to arrest its execution in every stage, as it would have been to have rescued from the fiery furnace

those who should have been cast into it for refusing to worship the image. It was accordingly done in every instance, without asking what the offenders had done, or against whom they had offended, but whether the pains they were suffering were inflicted under the pretended sedition law."

During his administration, some of Mr. Jefferson's over-zealous friends in Connecticut had instituted a prosecution against a clergyman in that State for a libel against the President from the pulpit. As soon as he was informed of it, Mr. Jefferson wrote to Mr. Granger, the Postmaster-General, then in Connecticut, that "he had laid it down as a law to himself, to take no notice of the thousand calumnies issued against him, but to trust his character to his own conduct and the candor of his fellow-citizens, that he had no reason to be dissatisfied with that course, and was unwilling it should be broken through." He therefore desired him to request the district attorney to dismiss the prosecution. Having afterwards heard of subpœnas for witnesses, he made a peremptory request to the same effect. The district attorney did dismiss the prosecution, and accompanied the dismission with the avowal that the court had no jurisdiction over libels. There were other prosecutions, of which he had no previous knowledge, but they were all dismissed at the same time. The clergyman afterwards, in a letter to Mr. Granger, disavowed all personal ill will to Mr. Jefferson, and solemnly

declared he had not uttered the words charged. These prosecutions were dismissed, as Tucker says in his "Life of Jefferson," on the same grounds as he had himself acted on in the case of Duane, Callender, and others, in considering the Sedition law unconstitutional.

In a letter to Mr. Granger in 1814, Mr. Jefferson wrote: "With respect to the dismission of the prosecutions for sedition in Connecticut, it is well known to have been a tenet of the republican portion of our fellow-citizens, that the Sedition law was contrary to the Constitution, and, therefore, void. On this ground I considered it as a nullity whenever I met it in the course of my duties; and on this ground I directed *nolle prosequis* in all the prosecutions which had been instituted under it; and, as far as the public sentiment can be inferred from the occurrences of the day, we must say that this opinion had the sanction of the nation. The prosecutions, therefore, which were afterwards instituted in Connecticut, of which two were against printers, two against preachers, and one against a judge, were too inconsistent with this principle to be permitted to go on. We were bound to administer to others the same measure of law, not which they had meted to us, but we to ourselves, and to extend to all equally the protection of the same constitutional principles. These prosecutions, too, were chiefly for charges against myself, and I had from the beginning laid it down as a rule to notice nothing

of the kind. I believe that the long course of services in which I had acted on the public stage, and under the eye of my fellow-citizens, furnished better evidence to them of my character and principles, than the angry invectives of adverse partisans in whose eyes the very acts most approved by the majority were subjects of the greatest demerit and censure. These prosecutions against them, therefore, were to be dismissed as a matter of duty."

Why did Mr. Jefferson maintain silence when unjustly accused and why did he prevent the prosecution of men who had slandered him? The answer is found in his own words. He profoundly believed that, while a free press would often wound and temporarily injure, ten thousand times more evil would follow censorship or prosecutions than to trust to the innate good sense of the public to separate the true from the false, and, before Emerson put it into an axiom, Jefferson was confident of this truth: "A man passes for what he is worth. Very idle is all curiosity concerning other people's estimate of us, and idle is all fear of remaining unknown. If a man know that he can do anything—that he can do it better than any one else—he has a pledge of the acknowledgment of that fact by all persons. The world is full of judgment days, and into every assembly that a man enters, in every action that he attempts, he is gauged and stamped." His conviction upon that point was put into an epigram in a letter to Thomas Seymore in February,

1807. He wrote, "The press is impotent when it abandons itself to falsehood." That truth he more fully emphasized and elaborated in a long letter to Mr. Seymore, from which the following extracts are taken: "Conscious that there was not a truth on earth which I feared should be known, I have lent myself willingly as the subject of a great experiment, which was to prove that an administration, conducting itself with integrity and common understanding, cannot be battered down, even by the falsehoods of a licentious press, and consequently still less by the press, as restrained within legal and wholesome limits of truth. This experiment was wanting for the world to demonstrate the falsehood of the pretext that freedom of the press is incompatible with orderly government. I have never, therefore, even contradicted the thousands of calumnies so industriously propagated against myself. But the fact being once established, that the press is impotent when it abandons itself to falsehood, I leave to others to restore it to its strength, by recalling it within the pale of truth. Within that, it is a noble institution, equally the friend of science and of civil liberty."

Though Matthew Lyon, soldier, patriot, printer was put in jail in Connecticut because he accused Mr. Adams of avarice, vanity and childish love of pomp, the result of the prosecution of Mr. Lyon proved the wisdom of Mr. Jefferson's view of "getting along without public prosecutions for libels." The

Connecticut people expressed their disapproval of the prosecution of Lyons by re-electing him to Congress while he lay in jail. To Levi Lincoln, in 1802, after he had liberated the men prosecuted under the sedition law, Mr. Jefferson wrote, "I would wish much to see the experiment tried of getting along without public prosecutions for libels. I believe we can do it. Patience and well doing, instead of punishment, if it can be found sufficiently efficacious, would be a happy change in the instruments of government."

The best place to find Jefferson's mature and real views are in his acts—the conspicuous part he bore in incorporating the guarantee of freedom of the press in State constitutions; the prominent place he gave to this in every constitution or bill of rights he suggested or drafted; his forcing into the Federal Constitution the provision that no laws should be passed abridging the liberty of the press; his sincere, courageous and effective fight against the unconstitutional and wicked sedition law; his recommendations in State papers; his inaugural addresses and the general trend of his writings and actions.

In his first inaugural address, Mr. Jefferson was on the mountain top of faith in the people and devotion to the freedom of the press, and his convictions then may be summed up in this sentence in a letter to Charles Yancey: "*Where the press is free* and every man able to read, *all is safe.*" In

his first inaugural address he said: "Freedom of the press I deem (one of the) essential principles of our government and consequently (one) which ought to shape its administration." In the same address, among the essential principles of government he enumerated "the diffusion of information, and arraignment of all abuses at the bar of public reason; freedom of religion, freedom of the press, and freedom of the person, under protection of the *habeas corpus;* and trial by juries impartially selected."

Between his first inaugural address and the second Mr. Jefferson and his administration had been the recipient of a steady stream of misrepresentation and abuse from the press hostile to his principles and those of the party he had founded. In his second inaugural he felt called upon to refer to the studied and continued attacks, but instead of recommending some other measure of suppression, or the re-enactment of the Sedition law, he used the incident to enforce his abiding faith in his creed: "The liberty of speaking and writing guards our other liberties." Printing has been said to be "the art preservative of arts." It is equally true that the free press is the preservative of all freedom.

In his second inaugural address, Mr. Jefferson, while commenting with severity upon the lengths to which a licentious press had gone in misrepresenting his administration, used the abuse of their liberty and its failure to accomplish its purpose to

injure, as the perfect and complete vindication of the position he had always maintained. He said:

"During this course of administration, and in order to disturb it, the artillery of the press has been levelled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science are deeply to be regretted, inasmuch as they tend to lessen its usefulness and to sap its safety. They might, indeed, have been corrected by the wholesome punishments reserved and provided by the laws of the several States against falsehood and defamation; but public duties more urgent press on the time of public servants, and the offenders have therefore been left to find their punishment in the public indignation.

"Nor was it uninteresting to the world, that an experiment should be fairly and fully made, whether freedom of discussion, unaided by power, is not sufficient for the propagation and protection of truth? Whether a government, conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation? The experiment has been tried. You have witnessed the scene. Our fellow-citizens have looked on cool and collected. They saw the latent source from which these outrages proceeded. They gathered around their public functionaries; and, when the Constitu-

tion called them to the decision by suffrage, they pronounced their verdict, honorable to those who had served them, and consolatory to the friend of man, who believes he may be intrusted with his own affairs.

"No inference is here intended that the laws provided by the State against false and defamatory publications should not be enforced. He who has time, renders a service to public morals and public tranquillity in reforming these abuses by the salutary coercions of the law. But the experiment is noted to prove that, since truth and reason have maintained their ground against false opinions, in league with false facts, the press, confined to truth, needs no other legal restraint. The public judgment will correct false reasonings and opinions, on a full hearing of all parties; and no other definite line can be drawn between the inestimable liberty of the press and its demoralizing licentiousness. If there be still improprieties which this rule would not restrain, its supplement must be sought in the censorship of public opinion."

But, though he never wavered in his faith in the blessings of a free press, Mr. Jefferson was so hunted by the hyenas of a malignant and scurrilous personal journalism, that he often gave expression to his sense of outrage at the misrepresentations of his character and views, in language that has been twisted into the idea that he came, in his latter years, to doubt his early belief that the press should

be unrestrained. Such expressions were always uttered or written hastily while he was smarting under what he knew to be undeserved criticism and abuse, as will be seen by extracts from private letters written by him. These letters were not written for publication. In them he was merely thinking aloud. They convey only a passing wave of indignation that often causes a man to speak vehemently to his friend of a sense of injustice. It is therefore not just to accept such expressions as his deliberate and well-considered convictions.

If any public man ever had the right to rail at the press, that man was Mr. Jefferson, who was abused and villified by a portion of it from the day he secured the repeal of the law of primogeniture in Virginia almost to the day of his death. Writing of his fight against Mr. Pendleton's compromise, proposing to give the elder son a double portion, in his "Autobiography," Mr. Jefferson thus gives the substance of his reply: "I observed that if the eldest son could eat twice as much, or do double work, it might be a natural evidence of his right to a double portion; but being on a par in his powers and wants with his brothers and sisters, he should be on a par also in the partition of the patrimony; and such was the decision of the other members." In taking that stand, then almost revolutionary, Mr. Jefferson brought down upon his head, then and ever afterwards, the wrath of two classes: First, those who stand for all forms of special privi-

lege—as primogeniture, church establishment, protection to particular interests, belief in inherited monarchies, a censorship of the press, and the like; second, those, who, by the natural process of inertia, oppose all innovations under the guise of conservatism. Jefferson was inherently an innovator. No tradition, no custom, no practice, no belief, that did not appeal to his judgment and reason had any sacredness to him. Of all his great measures, when he first unfolded them, it was as true as of the one of which he wrote in a letter from France, "The leap I then proposed was too long, as yet, for the mass of our citizens." But he lived to see the country approve them all before he died. A man who shows contempt for outworn creeds and beliefs, is as sure to cut across the grain of the large and reactionary class who cling tenaciously to them as he is to arouse the hostility of those enjoyers of special privilege who see their perquisites and bounties taken from them by a law of equality. To his defiance of these two classes, and to the misconception of the man by those misled by them, Mr. Jefferson was indebted for the storm of abuse that beat upon his head from the day that the supporters of primogeniture and the fox-hunting clergy were provoked to resentment by Mr. Jefferson's broad-minded and liberal measures.

It is not surprising that he gave vent to his indignation when viciously slandered. The surprise is that his indignation did not drive him to the point

of favoring censorship of the press or severe punishment of editors who wrote false things about him. Though extremely sensitive to criticism and sometimes wounded at the sorest point by the printed libels, he never faltered in his creed that a free press was "the only tocsin of a nation." To Edward Rutledge, in 1796, he wrote, "You have seen my name lately tacked to so much of eulogy and of abuse that I dare say you hardly thought that it meant your old acquaintance of '76. In truth, I did not know myself under the pens of either friends or foes. It is unfortunate for our peace that unmerited abuse wounds, while unmerited praise has not the power to heal. These are hard wages for the services of all the active and healthy years of one's life." To Samuel Smith, in 1798, he wrote: "Were I to undertake to answer the calumnies of the newspapers, it would be more than all my own time, and that of twenty aids could effect. For while I should be answering one, twenty new ones would be invented." To John Adams, in 1817, he wrote: "It is fortunate for those in public trust that posterity will judge them by their works and not by the malignant vituperations and invectives of the Pickerings and Gardners of their age." To M. Pictet he wrote: "The abuses of the freedom of the press here have been carried to a length never before known or borne by any civilized nation. * * * Our newspapers, for the most part, present only the caricatures of disaffected minds." To James Mon-

roe, in 1798, he wrote: "It is really a most afflicting consideration that it is impossible for a man to act in any office for the public without encountering a persecution which even his retirement will not withdraw from him."

The most severe arraignment of the press into which his resentment to calumny upon himself and his administration ever led him was toward the close of his second term. Beset with foreign and domestic complications, harassed by divisions in his party in Congress, he was sorely wounded by the virulent criticisms of the Federalist or anti-republican press. He felt that he had spent himself for his country, without selfish aims, and he craved, as he was going into retirement, after half a century devoted to affairs of state, the good will and appreciation of his fellow countrymen. Instead of giving him assurances that his contribution to the life, safety and guidance of the young Republic was appreciated, a large part of the press was making his slightest act the fresh occasion for slander and detraction. It was at that time, in 1807, that he wrote the following letter from the national capitol to George Norvell, in response to a request as to how to conduct a newspaper, in which he gave vent to his feeling of resentment: "To your request of my opinion of the manner in which a newspaper should be conducted, so as to be most useful, I should answer, 'by restraining it to true facts and sound principles only.' Yet I fear such a paper would

find few subscribers. It is a melancholy truth, that a suppression of the press could not more completely deprive the nation of its benefits, than is done by its abandoned prostitution to falsehood. Nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vehicle. The real extent of this state of misinformation is known only to those who are in situations to confront facts within their knowledge with the lies of the day. I really look with commiseration over the great body of my fellow-citizens, who, reading newspapers, live and die in the belief, that they have known something of what has been passing in the world in their time; whereas the accounts they have read in newspapers are just as true a history of any other period of the world as of the present, except that the real names of the day are affixed to their fables. General facts may indeed be collected from them, such as that Europe is now at war, that Bonaparte has been a successful warrior, that he has subjected a great portion of Europe to his will, etc., etc., but no details can be relied on. I will add, that the man who never looks into a newspaper is better informed than he who reads them; inasmuch as he who knows nothing is nearer to truth than he whose mind is filled with falsehoods and errors. He who reads nothing will still learn the great facts, and the details are false.

"Perhaps an editor might begin a reformation in

some such way as this: Divide his paper into four chapters, heading the 1st, Truths. 2d, Probabilities. 3d, Possibilities. 4th, Lies. The first chapter would be very short, as it would contain little more than authentic papers, and information from such sources, as the editor would be willing to risk his own reputation for their truth. The second would contain what, from a mature consideration of all circumstances, his judgment should conclude to be probably true. This, however, should rather contain too little than too much. The third and fourth should be professedly for those readers who would rather have lies for their money than the blank paper they would occupy.

"Such an editor, too, would have to set his face against the demoralizing practice of feeding the public mind habitually on slander, and the depravity of taste which this nauseous aliment induces. Defamation is becoming a necessary of life; insomuch, that a dish of tea in the morning or evening cannot be digested without this stimulant. Even those who do not believe these abominations still read them with complaisance to their auditors, and instead of the abhorrence and indignation which should fill a virtuous mind, betray a secret pleasure in the possibility that some may believe them, though they do not themselves. It seems to escape them that it is not he who prints, but he who pays for printing a slander, who is its real author.

"These thoughts on the subject of your letter

are hazarded at your request. Repeated instances of the publication of what has not been intended for the public eye, and the malignity with which political enemies torture every sentence from me into meanings imagined by their own wickedness only, justify my expressing a solicitude that this hasty communication may in nowise be permitted to find its way into the public papers. Not fearing these political bull-dogs, I yet avoid putting myself in the way of being baited by them, and do not wish to volunteer away that portion of tranquillity, which a firm execution of my duties will permit me to enjoy."

Mr. Jefferson never but once replied to his critics in the press—and that was when accused of robbing a widow and her children while acting as executor. He did not then write his answer to a paper, but to a friend, and its calmness and fullness of statement completely destroyed the slander and discredited the slanderer. The reasons for his silence under great provocation are given by himself in letters to friends. To Wm. Duane, in 1807, he wrote: "Slander I have thought it best to leave to the scourge of public opinion." To Martin Van Buren, in 1824, he wrote, "My rule of life has been never to harass the public with fendings and provings of personal slanders. * * * I have ever trusted to the justice and consideration of my fellow-citizens, and have no reason to repent it, or change my course." To Dr. George Logan, in 1816, he wrote,

"As to federal slanders I never wished them to be answered but by the tenor of my life, half a century of which has been on a theatre at which the public have been spectators, and competent judges as to merit. Their appreciation has taught a lesson, useful to the world, that the man who fears no truths has nothing to fear from lies. I should have fancied myself half guilty had I condescended to put pen to paper in refutation of their falsehoods or drawn to them respect by any notice from myself."

Mr. Jefferson's party founded a newspaper—Freneau's Gazette,—edited by a clerk in his department, while Jefferson was Secretary of State in Washington's cabinet. It was established to counteract the teachings of Fenno's Gazette, chiefly edited by Hamilton, which preached the doctrines held by the Federalist party. The President thought that Jefferson should dismiss from the public service Mr. Freneau because he was quite free in criticising the administration of the Treasury Department under Hamilton. Though Jefferson stood by Freneau, manifesting a courageous and practical exhibition of his belief that every man should be allowed to speak and write what he pleased, and refused to accede to Washington's request to dismiss him, he did not write for Freneau's paper, though Hamilton, supposing Jefferson to be the author of the attacks upon his policy in that paper, assailed Jefferson most severely. To these attacks upon him, as to all others, he made no reply and gave no out-

ward sign that he had read them. To Edmund Randolph, prior to that time, Jefferson had written, "I have preserved through life a resolution, set in a very early part of it, never to write in a public paper without subscribing my name, and to engage openly an adversary who does not let himself be seen, is staking all against nothing."

In a letter, September 9, 1792, to General Washington, who had told Jefferson that articles in Freneau's paper "tended to produce a separation in the Union," and attacking him indirectly, though thinking him "fool enough to swallow the little sugar plums here and there thrown out to him," Jefferson defended himself for giving Freneau, the poet, an appointment in his office. He declared that his expectations looked only to the chastisement of the aristocratical and monarchical writers, and not to any criticism on the proceedings of the govèrnment: that Hamilton could see no motive for any appointment but that of making a convenient partisan, but he knew that talents and science were with him a sufficient recommendation. Freneau, as a man of genius, found a preference with him, and he added: "Freneau and Fenno are rivals for the public favors; the one courts them by flattery, the other by censure; and I believe it will be admitted that one has been as servile as the other severe. But is not the dignity, and even decency of government committed, when one of its ministers enlists himself as an anonymous writer

or paragraphist, for either the one or the other of them? And where the press is free, no one ever will. If virtuous, he need not fear the operation of attack and defence. Nature has given to man no other means of sifting the truth, either in religion, law or politics. I think it is as honorable to the government neither to know nor to notice sycophants or censure, as it would be undignified and criminal to pamper the former and persecute the latter."

Mr. Jefferson was the more severely abused for giving a position in the State Department to Mr. Freneau, probably because the power exerted by his paper was the cause of the loss of popular favor by the Federalists in the administration. Hamilton's defenders dared not admit that it was because Freneau's paper was destroying their idol's hold upon the confidence of the country, though that was the motive that prompted the criticisms of Mr. Jefferson for retaining the editor in the public service. Therefore, the Federalists declared the retention of Freneau to be a want of courtesy to his associates in the administration and a breach of moral duty. To that criticism George Tucker in his "Life of Jefferson" makes this conclusive answer:

"But against no aspersion of his enemies is his vindication more easy. On the public measures thus condemned, his opinions were known, in the cabinet and out of it, to be diametrically opposite

to those of Mr. Hamilton, their chief adviser; and while the press was made to assail him, his opinions, and motives, he surely had a right to use the same weapon in their defence. But further: according to his views of the interests of the country, and of the object and tendency of Hamilton's policy, it was not only his right, but his duty, to endeavor to operate upon public opinion, which was to be the final arbiter between them. In availing himself of this auxiliary, he seems never to have transcended the bounds of legitimate warfare. He practiced no concealment either of his principles or of his patronage of Freneau; he betrayed no confidence; he countenanced no doctrines in that paper which he did not maintain everywhere else. It does not appear that he ever wrote for the paper, for that did not accord with his notions either of prudence or propriety; but had he done so, he might have defended himself by the example of his political antagonist. It must also be recollected that the political principles and measures of Hamilton and his adherents were the chief objects of attack in the National Gazette, while the President, who was never confounded with them was always treated with decorum and respect. In every respect, then, the charge appears to be frivolous or unfounded.

"Mr. Jefferson had yet a further ground of vindication, had he needed it, though he never deigned to make use of it; and this was the fact, that the National Gazette was not set up by him, but by

Mr. Madison and General Henry Lee, then Governor of Virginia, and afterwards so warm a Federal partisan, for the double purpose of assisting Freneau, who had been their fellow collegian at Princeton, and of affording the public an opportunity of hearing the arguments of both the parties that then divided the country."

Though he did not personally write for the press he had well-matured opinions as to the duty of a political editor. He gave expression to his opinion in the following letter, written in 1811 from Monticello to William Duane: "I think an editor should be independent, that is, of personal influence, and not be moved from his opinions on the mere authority of an individual. But, with respect to the general opinion of the political section with which he habitually accords, his duty seems very like that of a member of Congress. Some of these, indeed, think that independence requires them to follow always their own opinion, without respect for that of others. This has never been my opinion, nor my practice, when I have been of that or any other body, differing on a political question from those whom I knew to be of the same political principles with myself, and with whom I generally thought and acted. A consciousness of the fallibility of the human mind and of my own in particular, with a respect for the accumulated judgment of my friends, has induced me to suspect erroneous impressions on myself, to suppose my own opinion wrong,

and to act with them on theirs. The want of this spirit of compromise, or of self-distrust, proudly but falsely, called independence, is what gives the Federalists victories which they could never obtain if these brethren could learn to respect the opinion of their friends more than their enemies, and prevent many able and learned men from doing all the good they otherwise might do." Of Duane he wrote to Mr. Wirt: "I believe Duane to be a very honorable man and sincerely republican; but his passions are stronger than his prudence, and his personal as well as general antipathies render him very intolerant. These traits lead him astray and require his readers, even those who value him for his steady support of the republican cause, to be on their guard against his occasional observations."

The critics of Mr. Jefferson have been wont to attribute what, in his lifetime, they termed his over-trust in the capacity of the people for self-government, to the views he imbibed in France. No doubt the spectacle of a people in a country where "every man must be a hammer or an anvil" at a time when the love of liberty and the rights of man inspired the best portion of the people of that country to demand a larger voice in governing themselves, had a permanent influence upon his life and views. But he secured the repeal of the law of primogeniture and church establishment, and drafted provisions for future constitutions, insuring the freedom to write and speak without

restraint, before he ever walked the streets of Paris. It was Jefferson instructing Frenchmen in the necessity for a free press as the mudsill of national liberty rather than learning from them the love of a free press that was a ruling passion of his life.

While in Paris, Jefferson prepared a charter of rights for the French people, the ninth section being as follows: "Printers shall be liable to legal prosecution for printing and publishing false facts, injurious to the party prosecuting; but they shall be under no other restraint."

They were in far too liberal a spirit of concession for the government party and nothing came of his wise recommendation. In 1802, writing to Thomas Cowper, he declared, "The press, the only tocsin of a nation, is completely silenced." Among the abuses in France that brought on the Revolution he named "the shackles on the freedom of conscience, of thought and of speech; on the freedom of the press by censure."

In M. Necker's report to the King, it was suggested by Mr. Jefferson's advice, "How far the press might be made free." He noted that the restraint on the freedom of the press was one of the chief complaints of the government in the French Revolution. In his "Autobiography" Jefferson says: "Nor should we wonder at * * * (the) pressure (for a fixed Constitution in 1788–9) when we consider the monstrous abuses of power under which * * * (the French) people were ground to

powder; when we pass in review the shackles * * * on the freedom of the press by the censure."

In spite of Mr. Jefferson's strong predilection for popular government, and his belief in its practicability, he still doubted, as he doubted when he was in Europe, as he says in a letter to his friend La Fayette, in November, 1823, whether the state of society in Europe could bear a republican government. He remarks, "an hereditary chief, strictly limited, the right of war vested in the legislative body, a rigid economy of the public contributions, and absolute interdiction of all useless expenses, will go far towards keeping the government honest and unoppressive. *But the only security of all is a free press.* The force of public opinion cannot be resisted when permitted freely to be expressed. The agitations it produces must be submitted to. It keeps the waters pure."

In the same year, writing to M. Coray, he said: "This formidable censor of the public functionaries, (press) by arraigning them at the tribunal of public opinion, produces reform peaceably, which must otherwise be done by revolution." To M. Coray, in Paris, in 1823, he wrote: "The press is the best instrument for enlightening the mind of man, and improving him as a rational, moral, and social being."

In his retirement, when the French dynasty was crushing popular liberty, Mr. Jefferson reminded La Fayette of the proposition he had made at the

early stage of the revolution to secure a compact with the King, the benefit of *habeas corpus*, jury trial, freedom of the press, and religion, and a national legislature which he would then have yielded; and to let them work out the amelioration of the condition of the people, until they should have been rendered capable of more.

In 1793, to De Viar and De Jandenes, he wrote: "Your residence in the United States has given you an opportunity of becoming acquainted with the extreme freedom of the press in these States. Considering its great importance to public liberty, and the difficulty of subjecting it to very precise rules, the laws have thought it less mischievous to give greater scope to its freedom than to the restraint of it."

Thus it is seen that, if the people of France at that time had learned the lesson of liberty under law as well as it had been learned in America's school of experience, Mr. Jefferson's suggestions would have been incorporated into the law of the land, and some of the horrors of the French Revolution might have been prevented.

Mr. Jefferson s contribution to the free press was not bounded by geographical lines or limited by any period of time. It was for all countries and all ages. In his life, whether laboring in the land of his birth to obtain, safeguard and make permanent the freedom of the press, or seeking to aid the people of France, groping through the darkness with only

the dim gleam of a censored press, to secure the "liberty of speaking and writing which guards all other liberties," he was always animated by faith in the capacity of man to control his own affairs, and by his oath of "eternal hostility against every form of tyranny over the human mind." His influence —inspiring, powerful, salutary in his day—did not die when his mortal body was laid to rest on the sloping hillside of Monticello, hard by the home where his pen had written the appeals, the resolutions, the statutes that gave America its untrammelled press.

Jefferson's services for liberty are immortal. Wherever men look out of darkened windows of despotic governments they are cheered by the light of Jefferson's Declaration, which penetrates and illumines the deepest cell of civic tyranny. Wherever, in any decade of the world's history—yesterday, to-day, to-morrow—the pen is subjected to censorship, the words and deeds of Jefferson are the bow of promise set in the heavens.

As the years shall pass,

> "And the thoughts of men are widen'd with the process of the suns,"

and, one by one the nations that sit in darkness come into the glorious light of freedom—freedom of conscience, freedom of speech, freedom to think and write and print—the majestic figure of Jefferson will loom up as the inspiring spirit who first breathed

into the printing press—(theretofore the unresponsive instrument to further the decrees of kings and bind the conscience and thoughts of men)—the breath of life, and made it responsive, sentient, virile, free. In this new life that dates from Jefferson, this free press has become the champion of the oppressed, the teacher of the young, the guide of the mature, the comfort of the aged, and the mightiest power for good that blesses and shall ever bless mankind.

Josephus Daniels

Raleigh, N. C., April 13, 1904.

The Powers Statue of Jefferson

Photogravure from the Marble Statue by Hiram Powers in the Capitol at Washington.

A splendid piece of work by the famous Vermont sculptor. It was purchased in 1855 for the sum of $10,000 by the United States Government, and placed in a niche at the bottom of the marble staircase leading to the gallery of the House of Representatives.

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The Ciracchi Jefferson

Reproduction from the Plaster-cast of the Original Bust.

At Jefferson's express order, Ciracchi, the Italian sculptor, modeled this bust of him. It was accounted one of the best images ever made of Jefferson. After Jefferson's death the original bust was sold to the United States Government, but was subsequently destroyed by the fire in the Congressional Library in 1851.

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THE BATTURE AT NEW ORLEANS.

THE PROCEEDINGS OF THE GOVERNMENT OF THE UNITED STATES IN MAINTAINING THE PUBLIC RIGHT TO THE BEACH OF THE MISSISSIPPI, ADJACENT TO NEW ORLEANS, AGAINST THE INTRUSION OF EDWARD LIVINGSTON. PREPARED FOR THE USE OF COUNSEL, BY THOMAS JEFFERSON.

THE BATTLE AT NEW ORLEANS

PREFACE.

EDWARD LIVINGSTON, of the territory of Orleans, having taken possession of the beach of the river Mississippi adjacent to the city of New Orleans, in defiance of the general right of the nation to the property and use of the beaches and beds of their rivers, it became my duty, as charged with the preservation of the public property, to remove the intrusion, and to maintain the citizens of the United States in their right to a common use of that beach. Instead of viewing this as a public act, and having recourse to those proceedings which are regularly provided for conflicting claims between the public and an individual, he chose to consider it as a private trespass committed on his freehold, by myself personally, and instituted against me, after my retirement from office, an action of trespass, in the circuit court of the United States for the district of Virginia.

Being requested by my Counsel to furnish them with a statement of the facts of the case, as well as of my own ideas of the questions of right, I proceeded to make such a statement, fully as to facts, but briefly and generally as to the questions of right. In the progress of the work, however, I found myself drawn insensibly into details, and finally concluded to meet the questions generally which the case would present, and to expose the weakness of the plaintiff's pretensions, in addition to the strength of the public right. These questions were of course to arise under the laws of the territory of Orleans, composed of the Roman, the French, and Spanish codes, and written in those languages. The books containing them are so rare in this country as scarcely to be found in the best-furnished libraries. Having more time than my Counsel, consistently with their duties to others, could bestow on researches so much out of the ordinary line, I thought myself bound to facilitate their labors, and furnish them with such materials as I could collect. I did it by full extracts from the several authorities, and in the languages in which they were originally written, that they might judge for themselves whether I misinterpreted them. These materials and topics, expressed in the technical style of the law, familiar to them, they were of course to use or not to use, according to the dictates of

their better judgment. If used, it would be with the benefit of being delivered in a form better suited to the public ear. I passed over the question of jurisdiction, because that was one of ordinary occurrence, and its limitations well ascertained. On this, in event, the case was dismissed; the court being of opinion they could not decide a question of title to lands not within their district. My wish had rather been for a full investigation of the merits at the bar, that the public might learn, in that way, that their servants had done nothing but what the laws had authorized and required them to do. Precluded now from this mode of justification, I adopt that of publishing what was meant originally for the private eye of counsel. The apology for its general complexion, more formal than popular, must be found as well in the character of the question, as in the views with which its discussion had been prepared. The necessity, indeed, of continuing the elaborate quotations, is strengthened in the case of ordinary readers, who are supposed to have still less opportunity of turning to the authorities from which these are taken.

The questions arising, being many and independent of each other, admitted not a methodical and luminous arrangement. Proceeding, therefore, in a course of narrative, I have met and discussed the points of law in the order in which events presented them; thus securing, as we go along, the ground we pass over, and leaving nothing adversary or doubtful behind. Hence the mixture of fact and law which will be observed through the whole.

Vouchers for the facts are regularly referred to. These are principally, 1. Affidavits taken and published on the part of the plaintiff, and of the city of New Orleans, very deeply interested in this question. 2. Printed statements, by the counsel on each side, uncontradicted by the other, of facts under their joint observation and knowledge. 3. Records. 4. Notarial acts, and 5. Letters and reports of public functionaries filed in the office of the Department of State.

FEB. 25, 1812.

JEFFERSON'S WORKS.

THE BATTURE AT NEW ORLEANS.

Not long after the establishment of the city of New Orleans, and while the religious society of Jesuits retained their standing in France, they obtained from Louis XIV. a grant of lands adjacent to the city, bearing date the 11th of April, 1726. The original of this grant having been destroyed in the fire which consumed a great part of the city in 1794, and no copy of it as yet produced, the extent and character of the grant is known from no authentic document. Its other limits are unimportant, but that next the river and above the city is understood to have been of 20 arpents, or acres, [of 180 French feet, or 64 yards of our measure each,] "face au fleuve," the ambiguity of which expression is preserved by translating it, "fronting the river." Whether this authorized them to go to the water line of the river, or only to the road and levee, is a question of some difficulty, and not of importance enough to arrest our present attention. To these they had added 12 ar-

Title of the Jesuits.

Fronting river.

pents more by purchase from individuals. In 1763 the order of Jesuits was suppressed in France, and their property confiscated. The 32 arpents, before mentioned, were divided into 6 parcels, described each as "faisant face au fleuve," and the one next to the city of 7 arpents in breadth, and 50 in depth, was sold to Pradel; but how these 7 arpents, like Falstaff's men in buckram, became 12 in the sale of the widow Pradel to Renard, [Report 7.] 13 in Gravier's inventory, and nearly 17, as is said Derb. viii. ix. in the extent of his fauxbourg, the plaintiff is called on to show, and to deduce titles from the crown, regularly down to himself. In 1788, Gravier, in right of his wife the widow of Renard, laid off the whole extent of his front on the river, whatever it was, into 4 ranges of lots, and in '96 he added 3 ranges more, establishing them as a Fauxbourg, or Suburb to the city. That this could not be done without permission from the government may be true; and no formal and written permission has been produced. Whether such an one was given and lost in the fire, or was only verbal, is not known. But that permission was given must be believed, 1. From Gravier's declaration to Charles Trudeau the surveyor, which must operate as an Estoppel [Report 45.] against all contrary pretensions in those claiming under him. 2. From Carondelet's order to Trudeau, first to deposit a copy of the plan in the public archives, and

Confiscation.

Gravier's title.

Fauxbourg.

afterwards an order for a second one to be delivered to himself, which implied necessarily that he had consented to the establishment; but more especially when B. Gravier relying on this establishment as freeing him from the repairs of the bank, the Governor declared "it was true and that Gravier was right." 3. From the records of the Cabildo, or town council, with whom the Governor sat in person, showing that at their sessions on the 1st day of January annually, for regulating the police of the city, a Commissary of police for the new quarter was regularly appointed from the year 1796, till the United States took possession. The actual settlement of the ranges next the river, and the addition of the new ranges, now probably rendered that necessary. 4. From the conviction expressed by the Surveyor that, from his knowledge of the laws and customs of the Spanish colonies, no one would have dared to establish a city, bourg, village or fauxbourg without authorization, verbal at least, from the Governor. 5. From the act of the local legislature incorporating the city of New Orleans. [Thierry 32.] That no formal written act of authorization can be produced is not singular, as that is known to be the condition of a great proportion of their titles from the government: and the extraordinary negligence in these titles was what rendered it necessary for Congress to establish, in the several territories of Orleans, Mississippi, Louisiana, Indiana and Michigan, boards of Commissioners, to ascertain and commit them to

record. To this we may add that the principle which shall take from the inhabitants of the Suburb St. Mary the validity of their establishment, will annul a great portion of the land rights of those several territories. Finally, whatever act of the government may be considered as amounting to evidence of its ratification of the establishment of the fauxbourg, is retrospective, and will amount to an original authorization under the maxim, "omnis ratihabitio retrotrahitur, et mandato æquiparatur."

Gravier's sale.

Bertrand Gravier proceeded to sell the lots of his new Fauxbourg, and particularly he sold the whole range next the river. Such deeds for these lots as have been produced, describe them as "haciendo frente al rio," "fronting the river." And it is affirmed, [Examen 13. Poydras 7. and 18. Thierry 39.] that almost all, if not all the deeds, used the same expression. [See notarial copies of the deeds of B. Gravier to Nicholas Gravier, and of Nicholas Gravier to Escot, Girod, Wiltz.] Bertrand Gravier himself, on all occasions, [Pieces Probantes 9. 21. 28. 30. Livingston 59. Monile's deposition, MS.] declared that he had sold his lots "faisant face au fleuve," and had passed to the purchasers his right to the *devanture*, meaning everything in front of his lots. Whatever extent then towards the river, passed to the Jesuits by the term "face au fleuve," or from the king to the purchasers of the Jesuits' property, under whom B. Gravier claimed, the same extent was, by the same ex-

pression, "face au fleuve," or "frente al rio," passed by Bertrand Gravier to the purchasers of the front lots. If the words "face au fleuve," gave him only to the road and levee, he by the same words gave them no farther; if to the water edge, then he sold to the water edge also, and having parted with all his right as riparian possessor, could transmit none to those claiming under him by subsequent title, as the plaintiff does. In a note added to the end of the printed Report of this case, whether by the reporter or the plaintiff does not appear, it is said that this objection was answered by showing, *from the deeds*, that each lot had a clear front boundary, by referring to the "*plan which in no instance crossed the road.*" And that this brings it within the rule of law which says, "in agris limitatis jus alluvionis locum non habere constat." Dig. 41. 1. 16. This process of deduction, if not clear, is compendious at least, and better placed in a note, than in the text, where explanation would have been expected. Let us spread it open and examine it. What says the deed to Nicholas Gravier for 58 lots?

Yo Don Beltran Gravier vendo a Don Nicholas Gravier cinquenta y ocha terrenos situados en esta dicha ciudad, extramuros de la puerta de Chapitulas, à saver, *trece haciendo frente al rio*, Missisipi, y lindando por el lado de abaxo, que es de esta dicha ciudad, con terreno de Don R. Jons, y por el de arriba con otros de Don J. B.

I Don Beltran Gravier sell to Don Nicholas Gravier 58 lots situated in this said city without the gate of Chapitulas, to wit, 13 *fronting the river* Missisipi, and bordering on the lower side, which is that of this said city, with the lot of Don R. Jones, and on the upper side with others of Don J. B. Sarpy, &c. And *the* 45 *lots re-*

Sarpy, &c. Y los *quarenta y cinco terrenos restantes* completa a los cinquenta y ocho, que quedan indicados, comenzan sobre el limite de la primera calle, formande una linea directa à empezar por el terreno que se halla detras del de Don J. Poydras, todo conforme al plano que, delineado por Don C. L. Trudeau, hé entregado al comprador para su inteligencia y resguardo: però con la condicion de que me reservo el derecho de tomar la tierra que necessitaré para mi fabrica de ladrillos, en la playa ó Battura que hay en la extension de los nominados trece terrenos que hacen frente al dicho rio.

maining, the complement of the 58 before mentioned, commence above [or beyond] the limit of the first street, forming a right line, beginning at the lot which is behind that of Don J. Poydras, in conformity with the plan which having been delineated by Don C. L. Trudeau, I have delivered to the purchaser for his information and ascertainment: Nevertheless, with the condition that I reserve to myself the right to take the earth which I shall need for my manufacture of bricks on the beach or batture which is in the extension of the said 13 lots which front the river.

The first part of this description is of the 13 lots, to wit, that they front the river. The second part relates wholly to the remaining 45 lots, which begin beyond or above the first street in a straight line from the lot behind Poydras', and refers to the plan to show their position more particularly as back lots, behind the front range. It is to be noted that the public way in front of the fauxbourg is not a street: it is the same chemin royale, royal road, which has existed from early times, and has never been merged in the character of a street. Nothing can prove more clearly, that this reference to the plan was not to give a front line to the 13 lots, than that the same deed reserves the right of digging earth on the batture beyond that line. Now if nothing was meant to be conveyed *beyond* the front line marked

in the plan, why reserve a right to dig earth on the batture, which is *beyond* that line? And that Nicholas Gravier, Escot, Girod and Wiltz did not consider this line as the limit of their rights, appears from their deeds conveying the *batture* expressly by that name, with the lots themselves. On the whole, we see here a curious specimen of tergiversation in reasoning. When urged that the grant to the Jesuits, and to Bertrand Gravier, though expressed to be "face au fleuve," must still have stopped at this line or edge of the royal road, it is answered that those terms convey to the water edge, and make it an "ager arcifinius," to which the right of alluvion appertains. But when Bertrand Gravier conveys to his purchasers "face au fleuve," they turn about and say that the same identical words "face au fleuve," convey now only to this same line or edge of the royal road, which they overleaped before, and make the grounds conveyed an "ager limitatus," to which the right of alluvion does not appertain. It is perfectly equal which of the meanings is ascribed to these words. Only give them the same in both instances, and say which. If these words make the road your boundary, you never had a right to the batture beyond it. If they extend to the river what was conveyed to *you*, they extend to the river also what was conveyed *from you*. Will it be pretended that, after establishing his town, Bertrand Gravier could then have sold the streets to others? and yet he might, a

Streets.

fortiori, having not included them in any deed. But does not common sense and common honesty proclaim that the establishment of his town, and sale of the lots, implied a relinquishment to the inhabitants of the communications of streets and shores adjacent, as a common, which are the necessary and constant appendages of every town? The express conveyance then of his riparian rights, and the implication as to them and the streets, are believed to be conclusive to show that the plaintiff having had no right, can have sustained no wrong.

In 1797, Bertrand Gravier died intestate; and at this epoch we must introduce what constitutes the sole object of the existing contest. Opposite to the habitation or plantation of B. Gravier, now the Fauxbourg Ste. Marie, the beach of the river, called in that country Batture, of ordinary breadth within memory, has sensibly increased, by deposits of earth, during the annual floods of the river, [Derb. xix.] till in the year 1806, it was found to extend in breadth, at low tide, from 122 to 247 yards of our measure, from the water edge into the river: and from about 7 f. height, where it abuts against the bank, declining to the water edge. See Pelletier's plan annexed. Thiery xvii. While uncovered, which is from August to January inclusive, it has served as a Quai for lading and unlading goods, stowing away lumber and firewood, and has furnished all the earth for building the city, and raising its streets and courts, essential

Beach or Batture.

in that oozy soil. Derb. ii. While covered, which is during the other six months of the year, from February to July inclusive, [Liv. 58. Poydras 20. 21. 23.] it is the port for all the small craft of the river, and especially for the boats of the upper country, which, in the season of high water, can land or lie no where else in the neighborhood of the city. During this period, they anchor on its bottom, or moor to its bank. It is then, like every other beach, the bed of the river one half the year, and a Quai the other half, distinguished from those of tide waters, by being subject to an annual, instead of a semidiurnal ebb and flood. In this beach or shoal, with the bank to which it is adjacent, if Bertrand Gravier claimed any right, as riparian proprietor of the habitation, he had certainly meant to convey that right to the purchasers of the front lots, by the term "frente al rio," "fronting the river," reserving expressly, as we have seen, from one purchaser of 58 lots, a right to take earth, from the beach, for his brickkilns. As he died without children, the inheritance belonged to John Gravier, and other brothers and sisters whom he had left in France, or their representatives, as co-heirs.

Purchase by Inventory.

By the civil law, if an heir accepts the inheritance, he is considered, not merely as the representative, but as continuing the person of the ancestor himself, is answerable for all his debts, and out of all his property, as well his own, as what he had newly acquired by the inheritance. Time,

therefore, was allowed him to inform himself of the condition of the estate and debts, during which it was considered as an hæreditas jacens, vested in nobody. If he declined taking the inheritance simply as heir, he was allowed to take it as purchaser, or in their language, as heir with the benefit of inventory: whereupon an inventory and appraisement of it took place, and he had the pre-emption at the appraised value. He was then liable to no more debts than the amount of the appraisement; and if there was a surplus of the appraised value over and above the debts it was his, if a single heir, or partitioned among the co-heirs, as parceners, if there were more than one. Brown. civ. law, I. 218. 302. Kaim's law tracts, 389. Gibbon's c. 44. 153. Bertrand Gravier is understood to have left France indebted and insolvent: and John Gravier, therefore, either knowing, or ignorant of the amount of the debts, chose on behalf, or perhaps in defraud, of the co-heirs, to decline the inheritance, and to take the estate as a purchaser by inventory and appraisement. It was inventoried and appraised. In the inventory is placed a single article of lands, in these words, "are placed in the inventory the lands of this habitation, whose extent cannot be calculated immediately, on account of his having sold many lots; but Mr. N. Gravier informs us that its bounds go to the forks of the bayou, according to the titles." And in the appraisement also there is but this same single article of lands, thus described, "about thirteen ar-

pents of land, of which the habitation is estimated, including the garden, of which the most useful part is taken off in front, the residue consisting of the lowest part, [to wit, that descending back to the bayou,] the side being sold to Navarro, one Percy, and the negro Zambo, a portion of which, etc., estimated at 190 D. the front acre, with all the depth, which makes 2470 D." Then follows the adjudication, which adjudges to John Gravier "the effects, real estate, moveables and slaves *which have been inventoried* as belonging to the estate of his deceased brother Bertrand Gravier, etc." Report 9. 10. We see, then, that no lands were inventoried but the thirteen arpents in front, composing the inhabitation. And it is impossible that that term should be meant to include the beach of the river, cut off from it by the intervention of the whole Fauxbourg of seven ranges of squares; or that they should not have used a more obvious expression, if the idea of the beach had been in their minds. Nobody could consider these two parcels, distant and disjointed as they were, as being one parcel only, one habitation. No man having two farms, or two tracts of land, separated by the lands of others, would expect that by devising or conveying one, the other would pass also. In fact, at that time, neither John Gravier nor any one else, considered the beach as any part of Bertrand Gravier's estate: and in the appraisement, they estimate the front arpents, (that is, fronting on the fauxbourg,) with all their depth to the bayou, at 190 dollars, the

front arpent; contemplating clearly only what was between the fauxbourg and bayou. Accordingly Fernandez, acting for the Depositor General, the legal officer in those cases, swears that he took charge and possession of all the estate according to the inventory which had been made from the 28th of June to the 4th of July, 1797; that, in that inventory, the batture never was mentioned, or heard of, as property of Gravier, nor in charge of the Depositor, and that, on delivering the estate to John Gravier, the batture never was spoken of. It is equally certain that had there been an idea that they were smuggling the batture away, through these proceedings, the citizens of New Orleans would not have been so silent, nor the Governor, the Cabildo, and other Spanish authorities so passive, when so active on all former occasions respecting the batture: and that had the batture been under the view of the appraisers, instead of estimating it at 2470 dollars, conjointly with other thirteen arpents, a very different sum must have been named. The batture alone is now estimated at half a million of dollars. But the truth is, that neither John Gravier, nor any one else, at that day, considered it but as public property. And for six years ensuing, he never manifested one symptom of ownership; until Mr. Livingston's arrival there from New York, with the wharves and slips of that place fresh in his recollection. The flesh-pots of Egypt could not suddenly be forgotten, even in this new

Livingston's arrival.

land of Canaan. Then John Gravier received his inspiration that the beach was his; and is tempted, by one kind of bargain after another, to try his fortune with it. It was only to lend his name, and receive a round sum if anything could be made of it. To get over the palpable omission of it in the inventory and appraisement, they find a man whose recollection is exactly à propos; a Henry Parisien, a comedian by profession, and a joiner by trade. He had been one of the appraisers, ten years before, and recollected, and so swore that he had "*walked on the batture*, before the closing of the appraisement, to ascertain its extent and be the better able to judge of its value, and that it was through forgetfulness that *it had not been taken into the estimate.*" Pièces Prob. 33. It happens that nature bears witness against him. From the 20th of June to the 4th of July is within the period of high waters; and it is proved that, at the very time of the appraisement, the river was still overflowing, and the batture covered with water: the journals of the sawmills further attest that they did not cease to work till the 25th of August of that year: and when the waters of the river are sufficiently low to stop the mills, all the battures are still covered with water. P. Pr. 34. However even this Henry Parisien swears, "*that the batture was not in the estimate*, and that it was through forgetfulness that it was not." Examin 19. Rep. 21. Pi. Prob. 33. No matter through what cause, it is enough that it was *not in*

Parisien.

the inventory or estimate, and of course not sold to J. Gravier. This corroborates the testimony of the Depositor, that he neither had it in his charge, nor included it in the estate sold and delivered. J. Gravier must, therefore, as to this part of his brother's estate, if his it were, recommence his work, by having a new inventory, appraisement and adjudication. But to repel the present proceeding, it suffices that having made his election to take, not as heir, but purchaser, this beach is not yet his; it is still an hæreditas jacens, and before he can convey it to Mr. Livingston, he must get it by a new process, and make a third bargain.

We will proceed further to trace the history of this acquisition of the batture, by the plaintiff, who writes a letter of lamentations to some member of the government, on the 27th of June, 1809. That "Congress will probably adjourn without coming to any decision on the subject of my removal by the late President of the United States from my estate at New Orleans." A most ungrateful complaint; for had he not been removed, he must, at the time of writing this letter, have been, as his estate was, some 10 or 12 feet under water; the river being then at its greatest height. And when was this notable discovery made, that the beach of the river was the separate and exclusive property of J. Gravier, clear of all public right to its use? Let us hear the Governor, in answer to this question. In a letter to the Secretary of State of October 13, 1807, he says, "early after the

arrival of Mr. Livingston in this territory, he became concerned in the purchase of a parcel of ground fronting the fauxbourg of this city, commonly called the batture, a property which had been occupied as a common by the city for many years previous, and the title to which, in the opinion of the inhabitants was unquestionable." The day[1] of the arrival of Mr. Livingston in New Orleans I do not know; but I recollect he was one of the earliest emigrants to that country, which was ceded to the United States on the 30th of October, 1803. We are told, [Rep. 11. Thierry 5.] it was proved by some oral testimony that J. Gravier *began* an inclosure of 500 feet square in that year, and completed it in the next. The day of beginning is not stated; but we may safely presume it was not while the French Governor thought the country belonged to his master, and most probably not till after "the early arrival of Mr. Livingston." This enclosure was demolished by an order of the Cabildo of Feb. 22, 1804.[2] The next step was to make an ostensible deed, to an ostensible purchaser,[3] a Peter de la Bigarre, a brother emigrant of Mr. Livingston's from New York, some old acquaintance. This was dated March 27, 1804, is expressed to be in consideration of 10,000 dollars, and conveys two undivided thirds of all that part or parcel of land, situate on the bank

Bigarre.

[1] He says, February, 1804.
[2] Thierry.
[3] Notar. copy, Gravier to Bigarre.

[sur la rive] of the river Missisipi, between the public road and the current of the said river, etc., with a warranty. I call the purchases ostensible, because notwithstanding his pretended purchase, J. Gravier, on the 20th of October, 1805, [Rep. 1.] commenced a suit against the city, as proprietor of the whole, and the court adjudged him proprietor of the whole; and because the same J. Gravier, [Poydr. 3.] by a deed to the same P. de la Bigarre, in which no mention was made of the former, or reference to it, conveys to him on the 14th Dec. 1806, the batture Ste. Marie, along the whole limits of this land, between the road and river, on condition that he shall pay all expenses of the suit depending, with 50,000 dollars in addition; that the property shall remain unsold and hypothecated for the purchase money till paid, and that if the law-suit fails, the sale is void, and Bigarre to pretend to no damages for non-execution. It is observable here that neither buyer nor seller risked anything. It was a mere speculation on the chance of a law-suit, in which they were to divide the spoils if successful, and to lose nothing if they failed.[1] It was by our law a criminal purchase of a pretense title, 32. H. 8. 9. and equally criminal by the law of that territory, where I presume the provision of the Roman law is in force, "qui improbe coeunt in alienam litem, ut quidquid ex condemnatione in rem ipsius redactum fuerit, inter eos communicaretur, lege Julia, de

[1]Lafon, in his map of New Orleans, says expressly that the Mississippi, at the city, is uniformly of the breadth of 300 toises only.—*MS. Note.*

vi privata, tenentur." Dig. 47. 8. 6. 4 Blackst. 135. "Whosoever shall take part in the suit of another, so that whatever shall be recovered by the judgment is to be divided between them, shall be subject to the Julian law, de vi privata." By which law, ib. tit. 7. § 1. they were to lose one-third of their goods, and be rendered infamous. The deed was not only criminal on its face, but was void by an express law of the territory, [a law of Governor Unzaga. Poydras 6. Rep. 25.] and so pronounced to be on the floor of Congress by their representative, because not executed before either witnesses or notaries. It was kept secret from its date, till the day before judgment was pronounced, when the parties becoming apprised of the decision which was to be given, (for this was known at least on the 20th of May,) [Governor Claiborne's letter May 20, '07,] produced it, for the first time, to the Notary to be recorded. And the day after its publication, the court, by the opinion of two members against one, [Examen 3.] adjudged the property wholly to the very man, who, if he had ever had any right, had conveyed away two-thirds of it, before he brought his action, and the whole while it was pending. The alarm which this adjudication produced was immediate and great. The fact was notorious that, from the earliest to the latest extension of the beach, the public had had a free use of it, as their Quai in low water, and in high water their port; and never before had their right

Decision of Court.

Alarm occasioned.

been doubted by themselves, or questioned by their riparian possessors. If any fact was ever proved by human testimony, this is. Turn to the Pieces Probantes, and out of 29 affidavits of the oldest and most respectable persons in the territory, men who had, most of them, borne offices under their former government, 21 of them uniformly declare that the public had ever been considered as having a right to the beach, as their port and Quai, that, as such, the Governors and Cabildo had the constant care and control of it, had demolished buildings and enclosures erected on it, had, by public ban, prohibited all erections or obstructions to its use, had themselves erected a rampart, to inclose within it a chamber accessible for earth at high water for rebuilding the city after the fire, and exercised uninterruptedly every other act of authority derived from the public rights; and 11 of them prove, as far as a negative can be proved, that the Gravier, till the change of government, and new views by Edward Livingston, had never pretended to more than the right of Common in it, and never had questioned that of the public, or the authority of the Governor and Cabildo over it. While they held the adjacent plantation indeed, they maintained the road and bank, as all rural proprietors are obliged by[1] law to do: for here it is proper to observe, that pursuing the spirit of the Roman law, which prescribed that every one should maintain the public

Servitude of road.

[1] Rep. 19.

road along his own dwelling, "construat vias publicas unusquisque secundum propriam domum." Dig. 43. 10. 3. The lands in Louisiana were granted generally on a condition, (called in those days *servitude*,) of furnishing ground for a public road, and of opening and maintaining that road. From which condition, however, they were released as to any portion of the ground which should afterwards become a town; the expense of roads or streets of that portion devolving then on the town itself. Accordingly B. Gravier, after establishing the front of his plantation into a suburb, and thus cutting off the residue from the road and the river, being[1] called on to repair the road by an order from Governor Carondelet, who seems at the moment not to have adverted to the change, Bertrand Gravier answered, that having sold the lots *faisant face au fleuve*, fronting the river, he had abandoned the batture to the town, and that the road and levee could not be at his expense, the Governor correcting himself at once, says, "Gravier is right, all this is true," and immediately, and ever after had the repairs made by the public. And the Graviers from that time stood discharged from these burdens on the same principle which had freed the original owners of the site of the city from maintaining the banks of the city. This is declared by an host of witnesses in the Pieces Probantes, and probably could have been declared by every ancient inhabitant of the place. We are told indeed by La-

[1] Monile's affidavit, MS.

roche and Segur, in their affidavit, [Livingston 66.] of Carondelet, and some other Governor asking leave of Gravier in 1795 and 1798, to deposit masts on the beach. If this be true, which Mr. Thierry, [p. 42.] who knew the witnesses, treats as ridiculous and absurd, it shows that they were forgetful, or inconsistent, or over complaisant; but not that Gravier required, or expected to be asked; and much less could it divest a public right, acknowledged from the earliest times, and essential to the commerce and existence of the city. An accurate discrimination indeed between the measure of right in the riparian proprietor while he held the adjacent farm, in the individuals of the nation as usufructuaries, and in the sovereign as their representative and trustee, as respectively apportioned to them by the law, seems not to have been attended to either by the citizens at large, or the adjacent proprietors. The riparian possessor appears to have been sensible he had some rights, without distinctly understanding what they were: but, whatever they were, he knew he had parted with them by the deeds establishing his fauxbourg. The citizens, in the daily habit of using without control the port and Quai, imagined themselves exclusive proprietors of its soil, and came forward in that capacity, claiming, sometimes under some vague title which they did not define, and sometimes under the abandonment of right by Bertrand Gravier; the Sovereign, formerly their kings, but now the United States the legal holder of the public rights in the

beds, beaches and banks of all navigable waters, seems not to have been thought of at all in the contest. The United States were no party to the suit; nor could they be, having made themselves *amenable* to no tribunal. Their property can never be questioned in any court, but in special cases in which, by some particular law, they delegate a special power, as to the boards of Commissioners, and in some small fiscal cases. But a general jurisdiction over the national demenses, being more than half the territory of the United States, has never been by them, and never ought to be, subjected to any tribunal. Not adverting to this circumstance, however, the consternation in New Orleans, on this decision, was like that of Boston, on the occlusion of their port by the Boston port bill. If we have not forgotten that feeling, we may judge what the citizens of New Orleans felt on this decree of the court.

United States no party.

The Governor instantly writes, [letter of May 20, '07.] "I understand that this morning an important cause has been determined, in which Edward Livingston was the *real* plaintiff, and the city defendant, as to the right of property to some lands in front of the fauxbourg, made by the river, and over which the city has heretofore exercised a right of ownership. My impression is that the United States are the legal claimants to it." On the 21st of August, 1807, Mr. Derbigny's opinion was published, [Thierry 5.] and first brought into view the right of the United States,

and that the sentence of the court must of course, to them, be a mere nullity, "res inter alios acta, quæque aliis non potest præjudicium facere." A thing passing between others, and which to no others can do prejudice. Codex. 7. 60. And coming, with respect to the United States, under the provisions of the same code.

Tit. 56. "Si neque mandasti fratri tuo defensionem rei tuæ, neque quod gestum est ratum habuisti, præscriptio rei judicatæ tibi non oberit: et ideò non prohiberis causam tuam agere, sine præjudicio rerum judicatarum."

"If you have not committed to your brother the defence of your right, nor sanctioned what has been done, the plea *rei judicatæ* shall not bar you: and therefore you shall not be precluded from conducting your own cause, without exception from a former decision."

Certainly the city council did not appear, or pretend to appear under authorization from the government of the United States, nor as the advocates of their rights. They were called there as defendants of their own claim. The court did not undertake to decide on the right of the United States, which was neither before them, nor within their competence; and the injunction they issued could only be addressed to the parties between whom they had adjudged, and not to suspend the rights of others whom they had never heard, much less of the United States, who could not be heard before them. See 2 Dallas 408. 3 Dallas 412..414. 415.

Livingston's Intrusion

Presuming, however, that the coast was now clear, and the question finally settled, the ostensible actors withdrew, and their prin-

ciple comes forward, is put into possession by the Sheriff, and begins his works. The Governor, in his letter of Sept. 3, 1807, says, "a few days since, [Aug. 24.] Mr. Livingston employed a number of negroes to commence digging a canal which he projected to take in a part of the land called the batture. But the citizens assembled in considerable force and drove them off. On the day following he went in person, but was again opposed by the citizens. The minds of the people were much agitated. The opposition is so general that I must resort to measures the most conciliatory, as the only means of avoiding still greater tumult, and *perhaps much bloodshed*. I have not issued a proclamation because it might make an impression in the United States that the people are disposed for insurrection, which is not true. My opinion is that the title is in the United States. If the batture be reclaimed, it is feared the current of the Mississippi will in some measure change its course, which will not only prove injurious to the navigation, but may occasion degradation in the levees of the city, or those in its vicinity." To abridge our narration by giving the substance of the communications. The people assembled the next day about the same hour, and for several days successively, by beat of drum. [Livingston's letter of Sept. 15. '07.] On Monday the 31st of August, Mr. Livingston recommenced his work, after having given notice that he should do so. He began about 10 o'clock, A.M. and about 4 or 5 o'clock in the afternoon the people

assembled again and drove off his laborers. On the 14th of September he again attempted to work, getting two constables to attend his laborers. The people drove them off, and the constables having noted on a list some of those present, they seized them, took the list and tore it to pieces. [Sheriff's letter.] On the next day he writes to the Governor that he shall set his laborers to work again that day at 12 o'clock, and "he shall not be surprised to see the people change the insolence of riot into the crime of murder." At noon he accordingly placed 10 or 12 white laborers there. In the afternoon the people re-assembled to the number of several hundreds. The Governor repaired there and spoke to them. He was heard with respectful attention: and one of them, speaking for the whole, expressed the serious uneasiness which the decision of the court had excited, the long and undisturbed possession of the batture by the city, as well under the French as the Spanish government, and the great injury which would result to the inhabitants if the land should be built upon and improved. And another declaring that they wished the decision of Congress, and in the mean time, no work to be done on the batture, there was a general exclamation from the crowd, "that is the general wish," followed by a request that they might nominate an agent to bear to the President of the United States, a statement of their grievances, and that the Governor would recommend the agent to the govern-

Appeal to government of the United States

ment. He said he would do so, and they nominated Col. Macarty, by general and repeated acclamations. They then withdrew in peace to their respective homes, and on the 16th the Governor expresses the hope that this unpleasant affair is at an end, that everything is then quiet, and the public mind much composed; that some of his hotheaded countrymen censured the mild course which was pursued, and would have been better pleased if the *military* had been called upon to disperse the assemblage. But I feel, says he, that the policy adopted was wise and humane, and that a contrary conduct would have increased the discontents, and *occasioned the effusion of much innocent blood.* The Louisianians, he adds, are an amiable, virtuous people, but sensibly feel any wrongs which may be offered them. Mr. Livingston is alike feared and hated by most of the ancient inhabitants. They dread his talents as a lawyer, and hate his views of speculation, which in the case of the batture was esteemed very generally by the Louisianians no less iniquitous, than ruinous to the welfare of the city." The Governor says in another letter of October 5, to the Secretary of State, that in a progress he made a few days afterwards through several parishes of the territory, he perceived but one sentiment with respect to the decision of the court. The long and uninterrupted use of the batture by the city, the sanction given by the Spanish authorities to the public claim, and the heavy public expenditures in maintaining the levee which fronts it, seem

to have given rise to a very general opinion that the court has been in error in deciding the batture to be private property. On the 13th of November he again writes, "I should be wanting in duty did I not earnestly recommend the subject of the batture to the attention of the government. There is no doubt but the agents of Spain considered it as a public property, and did appropriate the same to the use of the city, as a common. I should presume that, under the treaty, the United States may justly claim the batture, and if any means can be devised to arrest the judgment of the territorial court, or to carry this case before another tribunal, the earlier they are resorted to, the better; for Mr. Edward Livingston is now in possession of the property, and *making improvements thereon.*" And the next day, Nov. 14, a grand jury of the most respectable characters of the place gave in a presentment to the court in which they say, "We present as a subject of the most serious complaint the present operations on the batture by Edward Livingston and others connected with him: that this is from 4 to 6 months of every year a part of the bed of the river, and an important part of the port of New Orleans: that these operations of Edward Livingston are calculated to obstruct the free navigation of the river, to change the course of its waters, to deprive our western brethren, whose only market for the produce of their extensive territory, is to be found in this city, of the deposit which has hitherto remained

Livingston's works.

free to them, and not only of incalculable improtance, but of absolute necessity. Whether it be private or public property, is immaterial, so long as the laws do not permit such use of it as to injure and obstruct the navigation: and we present it as our opinion that all such measures should be taken as are consistent with law to arrest these operations which are injurious for the present, and, in changing the course of the river, are hazardous in the extreme." We find Mr. Livingston then, instead of awaiting the decision of Congress, the only constitutional tribunal resuming his works boldly, and the people, whom he representd as like "to change the insolence of riot into the crime of murder," appealing peaceably, by presentment, to the laws of their territory until the National government should decide. In the latter end of the same year, [Surveyor's Rep. to Mayor, Dec. 28, '08.] he opens a canal from the bank directly through the beach into the river [1]276 feet long, 64 feet wide, and 4 feet 2 inches deep at low water, and with the earth excavated he forms a bank or quai, on each side, 19 feet 6 inches wide, from 4 to 6 feet high above the level of the batture, and faced with palisades. Within one year after this, what had been anticipated by the Governor, the grand jury and others, had already manifested itself. In Dec. of the ensuing year, 1808, [See Surveyor's rep. Dec. 28, '08.] a bar had already formed across the mouth of the canal, which was dry at low water, the course of

[1] These are French measures: add a fifteenth to make them ours.

the waters had been changed during the intervening flood, and the places where dry ground first showed itself, on the decrease of the river, were such as had, the year before, been navigable at low water. [Mayor's answer to Governor, Nov. 18, '08.] The port in front of the town had been impaired by a new batture begun to be formed opposite the Custom house, which could not fail to increase by the change of the current. The beach or batture of St. Mary had, in that single tide extended from 75 to 80 feet further into the river, and risen from 2 to 5 feet 10 inches generally, and more in places, as a saw-scaffold which, at the preceding low tide, was 7 feet high, was now buried to its top; and Tanesse, the Surveyor, [See his affidavit, MS.] in his affidavit says he does not doubt that these works have produced the last year's augmentation of the batture, at the expense of the bed of the river, have occasioned the carrying away a great part of the platin or batture of the lower suburbs, and breaking the levee of M. Blanque next below, and that the main port of the city being a cove, immediately below Livingston's works, would, if they were continued, be filled up in time; and it is the opinion of Piedesclaux also, [See his 3d affidavit, MS.] that they would produce changes in the banks of the river, on both sides, prejudicial to the city, and riparian proprietors, by directing the efforts of the river against parts not heretofore exposed to it. And Mr. Poydras tells us, [p. 20 of one of his speeches,] that when the river is at its height, the boats which

drift down it can only land in the eddies below the points, as they would be dashed to pieces in attempting to land in the strong current. That, at the town, they cannot land for want of room, there being always there two or three tier of vessels in close contact; nor at the lower suburbs of Marigny, which being at the lower part of the cove, are too much exposed both to winds and current. Indeed no evidence is necessary to prove that in a river of only 1200 yards wide, having an annual tide of 12 to 14 feet rise, which brings the water generally to within 8 or 10 inches, and sometimes 2 or 3 inches, of the top of the levee, insomuch that it splashes over with the wind, [See Peltier's, and Tanesse's affidavits, MS. and also the maps,] were the channel narrowed 250 yards, as Mr. Livingston intends, that is to say, a fourth or fifth of its whole breadth, the waters must rise higher in nearly the same proportion, that is to say, 3 feet at least, and would sweep away the whole levee, the city it now protects, and inundate all the lower country.

Thus urged by the continued calls of the Governor, who declared he could not be responsible for the peace or preservation of the place, by the tumult and confusion in which the city was held by the bold aggressions of the intruders on the public rights, by the daily progress of works which were to interrupt the commerce of the whole western country, threatened to sweep away a great city and its inhabitants, and lay the adjacent country under water, I listened to the calls of duty, imperious calls, which had I

shrunk from, I should have been justly responsible for the calamities which would have followed. On the 28th of October, '07, the Attorney General had given his opinion, and on the 27th of November, I asked the attendance of the heads of the departments, to whom the papers received had been previously communicated for their consideration. We had the benefit of the presence of the Attorney General, and of the lights which it was his office to throw on the subject. We took of the whole case such views as the state of our information at the time presented. I shall now develop them in all the fulness of the facts then known, and of those which have since corroborated them.

Cabinet deliberation.

The first question occurring was, what system of law was to be applied to them? On this there could be but one opinion. The laws which had governed Louisiana from its first colonization, that is to say, the laws of France with some local modifications, were still in force when this question was generated by the sale of the Jesuits' property to B. Gravier and others. France had indeed, about the end of the preceding year 1762, by a secret convention, ceded Louisiana to Spain, to be delivered whenever Spain should be in readiness to receive it. But this was not announced to the inhabitants till the 21st of April, 1764, nor did Spain receive possession till the 17th of August, 1769. [9 Raynal, 222. 235.] In the mean time the French government

What law?

and laws continued, the Jesuits' property was sold, and purchased under the faith of the existing laws; and according to these laws must the rights acquired by the purchaser, or left in the crown, be decided. Indeed in no case are the laws of a nation changed, of natural right, by their passage from one to another denomination. The soil, the inhabitants, their property, and the laws by which they are protected go together. Their laws are subject to be changed only in the case, and extent which their new legislature shall will. The changes introduced by Spain, after 1769, were chiefly in the organization of their government, and but little in the principles of their jurisprudence. The instrument which some have understood as suppressing the French and introducing the Spanish code, is the proclamation of O'Reilly of November 25, 1769, two months after the actual delivery of the colony. [See appendix to documents communicated to Congress by the President, with his message of October 17, 1803.] The transfer of the country, however, had been announced to the people five years before. Now surely, during these five years the French laws must have continued entire, and of course after them, so far as not altered. And that this proclamation made specific only, and not general alterations, a brief examination of its tenor will evince. It begins by charging the late council with a participation in the insurrection which had taken place,

Proclamation of O'Reilly

French code.

and by declaring it indispensable to abolish that, and to establish the *form* of politic government and administration of justice prescribed by the wise laws of Spain. But a *form* of government may surely be changed, and the mass of laws remain the same, as took place in our revolution. He proceeds then to establish that *form of government*, *dependence* and *subordination*, which should accord with the good of the service, and happiness of the colony. For this purpose he substitutes a Cabildo, in place of the ancient council, and instead of former analogous officers, he says there shall be Alferes, Alcades, Alguazils, Depositors, Regidors, a Scrivener, Procurator, Mayordomo, etc.; adopting thus the Spanish instead of the French organization of officers, for the administration of the laws. He changes the manner of proceedings in judicial trials, and of pronouncing judgments, according to a digest made by Unestia and Rey, by his order, *until* a general knowledge of the Spanish language and more extensive information on the statutes themselves might be acquired; prescribes rules for instituting actions by parties, of different denominations, the names and substance of the pleadings, rules for appearances, answers, replications, rejoinders, depositions, witnesses, exceptions, trials, judgments, appeals, executions, testaments, probates, advancements, and distributions: not changing the great outlines of the law, or the *ratio decidendi* generally; but merely the organization of officers, and forms of their proceeding. He

states also the criminal law, what it is in sundry cases of irreligion, treason, murder, theft, rape, adultery and trespass, proclaiming mostly what was already law; lastly, he establishes the fees of officers, and with that closes the proclamation, without a word said about abolishing the French, and substituting the Spanish code of laws generally. As far then as this instrument makes any special changes, its authority is acknowledged. But the very act of making special changes is a manifestation that a general one was not then intended. He did not mean by this instrument to change "all and some." One may indeed conjecture, from loose expressions in the instruments, that a more extensive change was in contemplation for some future time, when the inhabitants, as it says, should have acquired a general knowledge of the Spanish language. But *until* then expressly, and in the interim, the innovations it specifies are the only ones introduced. The great system of law which regulates property, which prescribes the rights of persons and things, and sanctions to every one the enjoyment of those rights, is left untouched, in full force and authority. If such a radical change were really meditated, it was never carried into execution; nor seems at any after time to have occupied seriously the attention of government. In the following year 1770, O'Reilly issued an additional ordinance respecting grants of lands; and Carondelet, in 1795, (26 years after the possession of the colony, and a year only before its transfer to

us,) passed an ordinance of police concerning bridges, roads, levees, slaves, coasters, travellers, arms, estrays, fishing and hunting; and these three acts seem to constitute the whole of the changes made in the established system of laws during the Spanish occupation of the country. Probably the Spanish authorities found, in the progress of their administration, that the difference between the French and Spanish codes, taken both from the same Roman original, would not justify disturbing the public mind, by a formal suppression of the one, and substitution of the other. Probably the officers themselves, not adepts in either, and partly French, and partly Spanish individuals, confounded them in practice as they found convenient; and hence the ill-defined ideas of what their laws were. But certainly when we appeal, as in the present case, to exact right, the French code is the only one sanctioned by regular authority; and the special changes before mentioned, of organization and police, having no relation to the beds and increments of rivers, that code is to give us the law of the present case. That code, like all those of middle and southern Europe, was originally feudal, [Encyclop. Method. Jurisprudence. Coutume. 400.] with some variations in the different provinces, formerly independent, of which the kingdom of France had been made up. But as circumstances changed, and civilization and commerce advanced, abundance of new cases and questions arose, for which the simple and unwritten laws of feudalism had made

no provision. At the same time, they had at hand the legal system of a nation highly civilized, a system carried to a degree of conformity with natural reason attained by no other. The study of this system too was become the favorite of the age, and, offering ready and reasonable solutions of all the new cases presenting themselves, was recurred to by a common consent and practice; not indeed as laws, formally established by the legislator of the country, but as a RATIO SCRIPTA, the dictate, in all cases, of that sound reason which should constitute the law of every country.[1] Over both of these systems, however, the

Roman.

[1] The following instances will give some idea of the steps by which the Roman gained on the Feudal laws. A law of Burgundy provided that "Si quis post hoc barbarus vel testari voluerit, vel donare, aut Romanam consuetudinem, aut barbaricam, esse servandam, sciat." "If any barbarian subject hereafter shall desire to dispose by legacy or donation, let him know that either the Roman or barbarian law is to be observed." And one of Lotharius II. of Germany, going still further, gives to every one an election of the system under which he chose to live. "Volumus ut cunctus populus Romanus interrogatur quali lege vult vivere: ut tali lege, quali professi sunt vivere vivant: illisque denuntiatur, ut hoc unusquisque, tam judices, quam duces, vel reliquus populus sciat, quod si offensionem contra eandem legem fecerint, eidem legi, qua profitentur vivere, subjaceant." "We will that all the Roman people shall be asked by what law they wish to live: that they may live under such law as they profess to live by: and that it be published, that every one, judges, as well as generals, or the rest of the people, may know that if they commit offence against the said law, they shall be subject to the same law by which they profess to live." Encyc. Method. Jurisprudence, Coutume. 399. Presenting the uncommon spectacle of a jurisdiction attached to persons, instead of places. Thus favored, the Roman became an acknowledged supplement to the feudal or customary law: but still, not under any act of the legislature, but as "raison écrite," written reason: and the

occasional edicts of the monarch are paramount, and amend and control their provisions whenever he deems amendment necessary; on the general principle that "leges posteriores priores abrogant."[1] Subsequent laws abrogate those which were prior. This composition of the French code is affirmed by all their authorities. One only of them shall be particularly cited, to wit, Ferriere Dict. de droit. Ordonnance.

"Les Ordonnances sont les vraies lois du royaume. Elles font la partie la plus générale et la plus certaine de notre droit Français, attendu qu'elles sont soutenues de l'autorité aussi bien que de la raison; au lieu que les loix Romaines ne subsistent que par leur équité, elles n'ont par elles-mêmes aucune autorité, qu'autant qu'elles sont considérées comme une raison écrite, du moins en pays coutumier; et à l'égard du pays de droit écrit, les loix Romaines n'y ont force de loi, que parceque nos rois ont bien voulu y consentir.

The Ordinances are the true laws of the kingdom. They constitute the most general and certain part of our French law, inasmuch as they are supported by authority as well as reason; whereas the Roman laws stand on their equity alone, having of themselves no authority, but as they are considered as *written reason*, at least in the provinces of Customary law. And as to those of written law, the Roman laws are in force only because our kings have thought proper to consent to it.

This system of law was transferred to Louisiana, as

cases to which it is applicable, becoming much the most numerous, it constitutes in fact the mass of their law.

[1] Since this publication, Gen. Armstrong, our late Minister at Paris, has sent me a printed copy of Crozat's Charter in French, which he says he obtained directly, and in person from the depôt of laws in Paris, but which he had no means of comparing with the original. This printed copy, with Gen. Armstrong's letter, I have deposited in the office of the Secretary of State at Washington. *MS. Note.*

is evinced by the [1]charter of Louis XIV. to Crozat, bearing date the 14th of Sept. 1712. The VIIth article of that is in these words. "Our edicts, ordinances and customs, and the usages of the Mayorality and Shreevalty of Paris, shall be observed for laws and customs in the said country of Louisiana." The customary law of Paris seems to have been selected, because considered as the best digest, and that to which it was proposed to reduce the customary law of all the provinces. Enc. Meth. Jurispr. Coutume. 405. This is the first charter we know of which established the boundaries and laws of Louisiana. It says nothing of the Roman law; but that, having become incorporated, by usage, with the customs of Paris, and constituting, as a supplement, one system with them, seems to have been considered as of their body, and transferred with them to Louisiana.[2] In 1717, Crozat transferred his rights to the

[1] The only copy of this Charter I have ever met with is in Joutel's Journal of La Salle's last voyage. An application was made by the government of the United States, through their minister at Paris, to the government of France, for permission to have the original of this charter sought for in their Archives, and an authentic copy obtained. The application was unsuccessful. We must resort, therefore, to this publication, made in 1714, two years after the date of the patent, under the rule of law which requires only the best evidence the nature of the case will admit. For although we may not appeal to books of history for documents of a nature merely private, yet we may for those of a public character, e. g. treaties, etc., and especially when those documents are not under control, as when they are in foreign countries, or even in our own country, when they are not patent in their nature, nor demandable of common right.

[2] If it be objected that the incorporation of the Roman law with the customs of Paris, and their joint transfer to Louisiana does not appear,

Compagnie d'Occident, at the head of which was the famous Law, 8. Raynal. 166. [edit. 1780.] which again in 1720, by union with others, became the Compagnie des Indes, who in 1731, surrendered the colony back to the king. 1. Valin, 20. But these various transfers from company to company, of the monopoly of their commerce, for that was the sum of what was granted them, and their final surrender to the king, could not affect the rights of the people, nor change the laws by which they were governed. When they returned to the immediate government of the king, their laws passed with them, and remained in full force until, and so far only as, subsequently altered by their legislator. That this was the sense of their government may be inferred from a clause in

I answer, 1. At the date of Crozat's charter, the Roman law had for many centuries been amalgamated with the customary law of Paris, made one body with it, and its principal part. By the customs of Paris were doubtless meant the laws of Paris, of which the Roman then made an important part, and might well be understood to be transferred with them. It was hardly intended that the new colonists were to unravel with this web, and to take out for their own use only the fibres of Parisian customs, the least applicable part of the system to their novel situation. 2. If the term, coutumes de Paris in the charter be rigorously restrained to its literal import, yet the judges of Louisiana would have the same authority for appealing to the Roman as a supplementary code, which the judges of Paris and of all France had had; and even greater, as being sanctioned by so general an example. 3. The practice of considering the Roman law as a part of the law of the land in Louisiana, is evidence of a general opinion of those who composed that state, that it was transferred, and of an opinion much better informed, and more authoritative than ours can be. Or it may be considered as an adoption, by universal, though tacit consent, of those who had a right to adopt, either formally, or informally, as they pleased, as the laws of England were originally adopted in most of these states, and still stand on no other ground.

the edict creating the Compagnie des Indes Occidentales, art. 34.

"Seront les juges établis en tous es dits lieux tenus de juger suivant les lois et ordonnances du royaume, et les officiers de suivre et se conformer à la coutume de la Prevôté et vicomté de Paris, suivant laquelle les habitans pourront contracter, sans que l'on y puisse introduire aucune autre coutume, pour éviter la diversité." 1. Moreau de St. Mery, 100.

"The judges established in all the said places shall be held to adjudge according to the laws and ordinances of the kingdom, and the officers to follow and conform themselves to the customs of the Prevoté and vicomté of Paris, according to which the inhabitants may contract, without that any other custom may be introduced, to avoid diversity." 1. Moreau de St. Mery, 100.

This then is the system of law by which the legal character of the facts of the case is now to be tested: and the plaintiff and his counsel having imagined that, in the Roman branch of it, they had found a niche in which they could place the batture to great advantage, have availed themselves of it with no little dexterity and by calling it habitually an alluvion, have given a general currency to the idea that it is really an alluvion: insomuch that even those who deny their inferences, have still suffered themselves carelessly to speak of it under that term. Were we, for a moment to indulge them in this misnomer, and to look at their claim as if really an alluvion one, the false would be found to avail them as little as the true name. The Roman law indeed says, "quod per alluvionem agro tuo flumen adjecit, jure gentium, tibi adquiritur." "What the river adds to your field by alluvion, becomes yours by the law of

Alluvion.

nations. Institute. L. 1. tit. 1. § 20. Dig. L. 41. tit. 1. § 7. The same law, in like manner, gave to the adjacent proprietors, the sand bars, shoals, islands rising in the river, and even the bed of the river itself, as far as it was contracted or deserted. Inst. 2. 1. 22. and 2. 1. 23. But the established laws of France differed in all these cases.

"Par notre droit Français, dit Pothier, les alluvions qui se font sur le bord des fleuves, et des rivières navigables, appartiennent au roi. Les propriétaires riverains n'y peuvent rien prétendre, à moins qu'ils n'ayent des titres de la concession que le roi leur aurait faite du droit d'alluvion." 1. Pothier. Traité de la propriété. 1 Part. c. 2. § 3. art 2. No. 159.

"By our French law, says Pothier, one of their most respected authorities, the alluvions formed on the borders of navigable streams and rivers belong to the king. The proprietors of riparian heritages can have no claim to them, unless they have evidences of the grant made to them by the king, of the right of alluvion along their heritages." Pothier, Part 1. c. 2. § 3. art. 2. No. 159. cited Derbigny, xviii.

And Guyot, in the Répertoire Universel de Jurisprudence, a work also of authority and cited with approbation by the plaintiff and his counsel, [Liv. 21. Du Ponceau, 14.] under the word "île," says,

"Nous n'admettons pas comme les Romains, les alluvions, et les accroissemens, au profit des propriétaires riverains, soit par les changemens qui peuvent survenir dans le lit des rivières, soit relativement aux îles, et îlots qui peuvent s'y former. Chez eux le lit, et les bords des fleuves et rivières étaient censés faire partie des héritages riverains; et par une suite de ces maximes, le terrain

"We do not admit, as the Romans, alluvions and accumulations to go to the riparian proprietors, either by changes which may happen in the bed of rivers, or relating to isles, and islets which may there be formed. With them the bed and borders of rivers and streams were considered as making part of the riparian inheritances; and as a consequence of these maxims, the

qu'un fleuve ajoutait à ces héritages, appartenait à ceux qui en étaient propriétaires. Ils réunissaient de même à leurs possessions le lit que le fleuve abandonnait; et lorsqu'il se formait une île dans le milieu de son lit, les riverans y avaient un droit êgal, et en partageaient la propriété. Suivant nos principes, les rivières navigables, leur lit, rives, et tous les terrains qui peuvent s'y former, appartiennent au roi, à raison de sa souveraineté. C'est la disposision précise de l'article 41. du tit. 37 de l'Ordonnance des eaux et forêts de 1669, qui a dissipé tous les doutes que l'on cherchait à faire naître dans plusieurs provinces, sur les fondemens des énonciations qui se rencontraient dans les anciennes concessions."

earth which a river added to these inheritances, belonged to those who were the proprietors of them. They reunited in like manner to their possessions the bed which a river abandoned, and when an isle was formed in the middle of its bed, the riparians had an equal right to it, and divided the property. According to our principles, navigable streams, their bed, banks, and all the grounds which may be formed there, belong to the king, in right of his sovereignty. It is the precise provision of art. 41. tit. 37. of the Ordonnance des eaux et forêts, which has dissipated all the doubts which they had endeavored to raise in several provinces, on the grounds of the enunciations which were found in the ancient concessions." Cited Derbigny 23.

Again, after laying down the Roman law of alluvion, and of islands formed in the beds of rivers, Le Rasle, in the law Dictionary, forming a part of the Encyclopédie Méthodique. Jurisprud. accession. 94, says,

"Nous n'avons pas suivi dans notre droit Français les dispositions Romaines à cet égard; toutes les isles ou autres attérissemens qui se forment dans les rivières appartiennent au roi, et font partie du d maine. Les terres ajoutées par alluvion aux héritages baignés par le fleuve et les rivières navigables, n'appar-

"We have not in our French law followed the Roman provisions in this respect; all islands or other accumulations which are formed in rivers, belong to the king, and constitute a part of the domain. Lands added by alluvion to inheritances washed by rivers and navigable streams, do not belong to the riparians, but

tiennnent aux riverains, que lorsqu'ils ont un titre de concession qui leur permet de se les approprier."

when they have a deed of concession which permits them to appropriate them to themselves."

And Ferriere, quoted also by the plaintiff, says,

"Pour ce qui regarde l'augmentation arrivée à un héritage subitement et tout d'un coup, la décision que les loix Romaines ont faites à cet égard n'est point observée dans le royaume. Cette augmentation appartient au roi, dans les rivières navigables." And Denizert agrees, "que les attérissements formés subitement dans le mer, ou dans les fleuves ou rivières navigables, appartiennent au roi, par le seul titre de sa souveraineté."

"As to augmentations happening suddenly and all at once, the decision of the Roman laws in this respect, is not observed in the kingdom. These augmentations belong to the king in navigable rivers." And Denizert agrees, "that atterrissements formed suddenly in the sea, or the navigable rivers or streams, belong to the king in the sole right of his sovereignty."

And he refers to the edicts of 1683, 1693, and 1710. And to put aside all further question as to the law of France on this subject, Louis XIV. by an edict of December 15, 1693, says,

"Louis, etc. salut. Le droit de propriété que nous avons sur tous les fleuves et rivières navigables de notre royaume, et conséquemment de toutes les isles, moulins, bacs, etc. attérissemens et accroissemens formés pas les dites fleuves et rivières, étant incontestablement établi par les lois de l'état, comme une suite et une dépendence nécessaire de notre souveraineté, les rois nos prédecesseurs et nous, avons de tems en tems,

"Louis, etc., Greeting. The right of property which we have in all rivers and navigable streams of our kingdom, and consequently in all the isles, mills, ferries, etc., accumulations and increments formed by the said rivers and navigable streams, being incontestibly established by the laws of the state, as a necessary consequence and dependence of our sovereignty, the kings, our predecessors, and ourselves, have from

ordonné des recherches des isles et crémens qui s'y sont formés, etc. A ces causes, de l'avis de notre conseil et de notre certaine science, pleine puissance et autorité royale, nous avons par ces présentes, signées de notre main, dit, statué et ordonné, disons, statuons et ordonnons, voulons et nous plait, que tous les détenteurs, propriétaires, ou possesseurs des îles, îlots, attérissemens, accroissemens, *alluvions*, droits de pêche, péages, ponts, moulins, bacs, coches, bateaux, édifices et droits sur les rivières navigables de notre royaume, qui rapporteront des titres de propriété ou de possession, avant le 1er Avril, 1566, y soient maintenus et conservés dans leurs possessions, en payant au fisc une année, et ceux sans titre, ni possession antérieurs au 1er Avril, 1566, en payant deux années de revenu."

time to time, ordered inquiries as to isles and increments therein formed, etc. For these causes, with the advice of our council, and of our certain knowledge, full power and royal authority, we have by these presents, signed with our hand, declared, enacted and ordained, and we do declare, enact and ordain, we will, and it is our pleasure that all the holders, proprietors, or possessors, of isles, islets, accumulations, increments, *alluvions*, rights of fishery, tolls, bridges, mills, ferries, packets, bateaux, edifices and imposts on the navigable rivers of our kingdom which shall produce titles of property or of possession before the 1st of April, 1566, shall be therein maintained and secured in their possessions, on paying to the treasury one year's revenue, and those without title papers, or possession prior to the 1st of April, 1566, on payment of two years' revenue."

Having no copy of this Ordinance, I quote it from Mr. Derbigny, p. 20. Duponceau, p. 10, and l'Examen de la Sentence, p. 8, by putting together the parts they cite, for neither gives the whole of what I have cited. Other respectable authorities might be produced, to the same effect, were it necessary to multiply them: and it is also admitted that authorities of weight, and of a different aspect exist, among these is Dumoulin, as respectable as Pothier, Guyot, or any other who has been cited. Were it absolutely in-

cumbent on me, more than on those who rely on the contrary authorities, to assign reasons for a difference of opinion among lawyers, on any point, it might be ascribed in this case to a difference of impression from views on the same subject, diversified as were the customs of the various provinces of France, on this very point. Dumoulin wrote a century and a half before the Ordinance of Louis XIV. In that course of time printing had become more diffused, books greatly multiplied, and a more correct collation of these customs could be made. So that had Dumoulin written in the days of Pothier and Guyot, and with their advantages, he would probably have concurred in the preceding observation, that, "if there were any doubts, this Ordinance has dissipated them." Be this as it may, Louis XIV. and his council have decided between these two opinions, and if it were not law before, his decision made it so. By this edict he declares the law of France, "incontestably," to be that "*Alluvions* belong to the king in all navigable rivers." But with a spirit of indulgence, meriting more respect than he has found in the language of the adverse party who dislike the truths he has declared, he confirmed all anterior usurpations, on payment of certain compositions and future rents, re-establishing, by the example, the authority of the laws, and rights of the crown against these usurpations. This Ordinance was passed nineteen years before the charter to Louisiana, and consequently was comprehended among the edicts

and ordinances originally established as the law of the Province.

Mr. Livingston and his advocates have asserted that the right to the beds and increments of rivers, is a gift of the feudal system to the sovereign, that is, to the nation, and is a peculiarity of that system: and further, that that system was never introduced into Louisiana. That the latter assertion is palpably erroneous, could be readily shown, were not the question altogether unnecessary. With respect to the former, surely it is putting the cart before the horse to say, that the authority of the nation flows from the Feudal system, instead of the Feudal system flowing from the authority of the nation. That the lands within the limits assumed by a nation belong to the nation as a body, has probably been the law of every people on earth at some period of their history. A right of property in moveable things is admitted before the establishment of government. A separate property in lands not till after that establishment. The right to moveables is acknowledged by all the hordes of Indians surrounding us. Yet by no one of them has a separate property in lands been yielded to individuals. He who plants a field keeps possession till he has gathered the produce, after which one has as good a right as another to occupy it. Government must be established and laws provided, before lands can be separately appropriated, and their owner protected in his possession. Till then the property is in the body of the nation, and they, or

their chief as their trustee, must grant them to individuals, and determine the conditions of the grant. In certain countries, they have granted them on a system of conditions and principles which have acquired the appellation of Feudal. Surely then it is the sovereign which has created the Feudal principles, and not these principles which have created the rights of the sovereign. The Edinburgh Reviewers, [No. 30. 339. Jan. 1810.] who in the progress of their work have deservedly attained a high standing in the public estimation, reviewing the condition of land-tenures among the Hindoos, say, "the territory of the nation, belonging in common to the nation, belongs, in this general sense, to the king, as the head and representative of the nation. As far accordingly as we have sufficient documents respecting rude nations, we find their kings, *without perhaps a single exception*, recognized as the sole proprietors of the soil. And they quote as their authorities,

In Europe.

For Wales, Leges Walliæ. c. 337.

Great Britain. The Bretons while they held the whole island, Turner's Anglo Saxons, c. 3.

Gaul and Germany. Cæsar, 4. 1. To which add Spain, Portugal, Italy, and all feudal states.

In Asia.

For China. Barrow. 397.

India. Montesq. Sp. L. 14. 6. Scott's Ferishta, vol. 148—495. 2. Bernier, 189.

Persia. 3. Chardin, 340. Syria and the Turkish dominions. 2. Volney, 402.

In Africa.

For Egypt. Herodot. 2. 109. Volney passim.

Others part of Africa. 4. Hist. gen. des voyages 13. v. do. 7. 5. 17. Mod. Univ. Hist. 322. Parke, 260.

In America.

For the Spanish part. Acosta 6. 15. and 18. Garcilaso, 1. 5. 1. Carli. letter 15.

For the United States and the Indian hordes of our continent, we cite our own knowledge.

It seems then to be a principle of universal law that the lands of a country belong to its sovereign as trustee for the nation. In granting appropriations, some sovereigns have given away the increments of rivers to a greater, some to a lesser extent, and some not at all. Rome, which was not feudal, and Spain and England, which were, have granted them largely; France, a feudal country, has not granted them at all on navigable rivers. Louis XIV. therefore was strictly correct when in his edict of 1693, he declared that the increments of rivers were incontestably his, *as a necessary consequence of the sovereignty.* That is to say, that where no special grant of them to an individual could be produced, they remained in him, as a portion of the original lands of the nation, or as new-created lands, never yet granted to any individual. They are unquestionably a regalian, or

national right, paramount, and pre-existent to the establishment of the feudal system. That system has no fixed principle on the subject, as is evident from the opposite practices of different feudal nations. The position, therefore, is entirely unfounded, that the right to them is derived from the feudal law; and it is consequently unnecessary to go into the proof of what the grants in that country exhibit palpably enough, that infeudations were partially at least, if not generally, introduced into Louisiana.

It ought here to be observed however that, so far as respects the beds and navigation of rivers, the right vested in the sovereign is a mere trust, not alienable. It is not like lands, imposts, taxes, an article of public property constituting the revenues of the state, but like roads, canals, public buildings, reserved for the use of the individuals of the nation. See an explanation of this subject, Vattel 1. 235. 239.

I have now to advert, and I do it with extreme regret, to a passage in the very able Memoire of M. Thierry, a Memoire conspicuous for its learning and sound reasoning, and to which I acknowledge myself peculiarly indebted for information on the points he has discussed. He says, p. 30, "To the ancestors of John Gravier the right of alluvion belonged not only by virtue of the Coutumes de Paris, which for two centuries back acknowledged the principle of the Roman law, and against which, for that reason, the Ordinances of the kings of France could with no manner of success be

M. Thierry.

pleaded, inasmuch as a royal ordinance specially made that Coutume the civil law of this colony; but also by virtue of the Spanish laws, which from 1769, have been constantly in force in Louisiana." 1. That the Roman principle of Alluvion was acknowledged by the Coutumes de Paris has not been proved. The adverse counsel, [Dúpon. p. 9.] has said indeed, that those Customs were silent on this subject. But I have considered Pothier, Guyot, and Le Rasle as better authority. 2. Mr. Thierry supposes that a Royal Ordinance having specially made that Coutume the civil law of Louisiana, the Ordinances of the kings of France were excluded from the system, and could not control what was Coutume. He had not, I presume, seen the charter of 1712, which makes the edicts and *ordinances*, with the Coutume de Paris, the law of that province; nor sufficiently considered that had the Coutumes been alone established by one ordinance, another might change them. 3. He supposes the Spanish laws have given Alluvions to the riparian proprietor. But the laws of the province, established by their charter, were not annulled by the change of one king for another, as their legislator. The latter might change them. But has he done so? If he has, his edict must be produced, that we may weigh its words, and judge of its effects for ourselves. And we must guard against admitting that the example of a Spanish Governor, if such example has occurred, occasionally and incorrectly acting on the laws of Spain, amounted to a repeal

of the whole system then existing, and a formal establishment of a different one. No such intention on his part, to make so momentous a change, should be so slightly inferred; and no power of his could effect it, even if intended. Nothing less than an Ordinance of the Sovereign himself, signed with his own hand, and sanctioned by all the solemnities attending their enactment and promulgation, was competent to reverse at once the legal condition of a whole people, and the laws under which their lives and properties were held. Again, even such an ordinance could not change the law as to past rights; and those now in question were vested before the Spanish government took place, and could not be annulled by a subsequent law. These gratuitous admissions, therefore, of Mr. Thierry, not at all necessary to his argument, and therefore probably not well considered, and in opposition to the opinions and demonstrations of an able brother counsellor (Mr. Derbigny), must be disavowed, and the authority of the Ordinance of 1693 insisted on with undiminished confidence. Mr. Thierry himself will perhaps the more readily abandon them, when he sees with what avidity his eagle-eyed adversary has pounced upon them in a letter to some member of the government, in which he considers them as giving up all ground of opposition to his claims.

Edict of Louis XIV.

To that edict then I shall now recur; and to the cavils raised against it by the advocates of the claims it annihilates. It is idle

for them to call it bursal, fiscal, and the act of a tyrant, etc. [Duponc. 10.] as if the authority of laws was to be graduated by the character of the existing legislator; and as if we were to be the judges, for other nations, of the character and obligation of their laws. It is vain to pretend that because the word "Alluvion," inserted in the enacting clause of the edict, is not in the preamble, therefore it has no force in the body of the law: as if the preface, giving the general reason and views of the law, was alone to be the law, and its actual enactments a mere nullity. Although the preamble of a statute is considered as a key to open the mind of the makers as to the mischiefs in their view, yet in general it is no more than a recital of some inconveniences, which does not exclude any other for which the enacting clauses provide; nor must the general words of an enacting clause be restrained by the particular words of the preamble. 6. Bac. Abr. Statute. I. 2. and the authorities there stated. So says our law; so says reason; and so must say the Roman law, if it be ratio scripta. But it is further to be observed that the words "attérrissements and accroissements," accumulations and increments, used in this preamble are generic terms, of which "Alluvion" is a species, and therefore strictly comprehended by it. This is proved by the Roman definition, "Alluvio est *incrementum* latens," "alluvion est un accroissement ou crement imperceptible," by the Napoleon code cited by Mr. Livingston:

Napoleon Code.

"Les attérissements et accroisements qui se forment successivement et imperceptiblement aux fonds riverains d'un fleuve, ou d'une rivière, s'apellent Alluvion." § 556.

"The accumulations and increments which form themselves successively and imperceptibly against the riparian lands of a river or stream are called Alluvion." Sect. 556.

Portalis.

And by the edicts of 1686 and 1689, both of which have the expression "*cremens* qui s'y sont formés, soit par *alluvion*, ou par industrie, etc. And here Portalis's rhetorical flourish, on presenting this law, is cited, [Duponc. 17. Liv. 22.] with triumph, as declaring that this law terminates the great question of Alluvion, and decides it conformably to the Roman law. It is very true indeed that it has terminated the question as to future cases, by changing the law, by transferring the right of Alluvion from the sovereign to the riparian proprietor, by giving the abandoned bed of a river, as an indemnification to him on whose land it has opened a new passage, and making this the future law of all the provinces. And had Louisiana then been subject to France, the law would have been changed *thenceforward*, for Louisiana also. I find no fault with Napoleon for this Roman predilection. I believe the change is for the better, so far as concerns rural possessions. A decision too of the parliament of Bordeaux is quoted by Mr. Duponceau 19. to prove that the law giving Alluvion to the adjacent possessor has been acknowledged in France by the decision of the parliament of

Bordeaux, confirmed, *as he has heard*, on appeal by the parliament of Paris. This proves only that the Roman law of alluvion was the law of the Generality of Bordeaux, not that it was then the law of all France. In the country called the Bordelois, Customary laws prevail. But

"Lorsque la coutume de Bordeaux ne s'est pas expliquée sur certains points de droit, ce n'est ni à la coutume de Paris, ni à d'autres coutumes qu'on a recours pour les faire décider, mais au droit écrit." Enc. Meth. Jurisp. Bordeaux."

"When the Custom of Bordeaux has not sufficiently explained itself on certain points of law, it is neither to the Customs of Paris, nor to other customs that recourse is had for decision, but to the written law," [that is, the Roman law.]

The inference then is, either that the Coutume de Bordeaux was the same on this point as the Roman law, or, that being silent, the Roman law was referred to.[1]

Surely never was the urgency of squeezing argument out of everything so apparent, as in the emphasis with which the adverse party presses and comments, [Liv. 32.] on the answers of the several tribunals, to which the Napoleon Code was referred for consideration and amendment. A dozen tribunals are named, with an etc. for more, who are acknowledged to have said nothing about alluvion: and this is produced as proof that it had belonged before to

[1] M. Moreau de Lislet assures us that he was in Paris at the time of the decision of this appeal from Bordeaux, that the decision of Bordeaux was reversed by the king and council, then referred to the Parliament of Paris, and the reversal confirmed by that body. See his Memoire, 50.

the riparian proprietor. But it proves more probably that these tribunals were contented with the change proposed, and had no amendment of it to offer. But, in truth, it proves nothing either the one way or the other. The tribunal of Paris is then quoted, with an acknowledgment that they do not make a single observation on the subject. Then long extracts from that of Rouen, proposing that *islands*, rising in the rivers, shall be given to the riparian proprietors: and recommendations to the same effect from those of Toulouse and Lyons. Now it is remarkable that neither the word "Alluvion," nor the idea of the thing, is either expressed or referred to in any one of these quotations. And yet Mr. Livingston says, "we find all these learned men either passing over these articles, as merely declaratory of the old law, or else *expressly acknowledging them* as such;" and again after the citation from Rouen, "here we have the positive declaration of a learned tribunal, etc., deciding that the edicts did not extend to alluvions, but only to islands in navigable rivers." And yet I repeat that neither the word nor the idea is to be found in any one of the quotations; for it is of these only I can speak, not possessing the book, but I presume Mr. Livingston's quotations are of the strongest passages. It is impossible to characterize such reasoning respectfully. I shall therefore leave it to the reflection of others. And I think myself authorized to conclude on the whole, that had the Batture been really an Alluvion, its ownership was

to be decided by the laws of France: and that Louis XIV. with the advice of his council, certainly knew when they declared what the law of their country "incontestably" was; and if we, with our scanty reading on the subject, at this day and distance, know better than they did, yet the enacting clause of the edict made it the law *thenceforward;* that it came over as law for Louisiana, made the batture, if an alluvion, the property of the sovereign; and certainly the whole tenor of the conduct of the Spanish government proved that they did not mean to relinquish it.

Before we quit this branch of the discussion, it is not amiss to observe that the eloquent declamations of these learned men of Rouen, so much eulogized by Mr. Livingston, were not at all heeded. The Napoleon code, § 560, retained the *islands* rising in the beds of navigable or floatable rivers, and (changing the French law only as to alluvions) declares, § 538, in opposition to the Roman law, that

"Les fleuves et rivières navigable ou flottables, les rivages, lais et relais de la mer, les ports, les havres, les rades, etc., sont considérés comme le dépendances du domaine public."

"Rivers and navigable or floatable streams, shores, increments, and decrements of the sea, ports, harbors, roads, etc., are considered as dependances of the public domain."

So that notwithstanding the "persuasive and conclusive arguments of these first lawyers of the country," Liv. 31, the French law as it stands at this day, and stood before, would have given the batture to the

public, being unquestionably the [1]rivage of shore or the river.[2]

[1] "Rivage, is most commonly used for the shore of the *sea*, but correctly also for the shore of a river.

"Chaque fleuve, chaque ruisseau
A partout franchi son rivage." Regnier. Dict. de Richelet. Rivage

"Le Tybre écumeux et bruyant
De sa course fougueuse étonne son rivage." St. Evremont.

It is particularly so used in Law. "Sous le nom de *rivage* est compris le chemin qui hoit être entretenu le long des côtes et rivières navigables, pour le hallage des bateaux." And again, "droit de rivage, qui est du sur les marchandises qui abordent au rivage de la ville de Paris." Dict. de Trévoux, Rivage. "Sur le rivage de la Seine" Dict. de l'Académie.

[2] Little versed in French jurisprudence, possessing few of the authors teaching it, and, of some of those quoted by the adverse party, so much only as they have thought to their advantage to quote, I had apprehended it possible (pa. 29.) that there might be among those authors, that conflict of opinions on the law of alluvions, which these quotations indicate. But I have lately had an opportunity of reading in MS. a Memoire on the subject of the Batture, written by M. Moreau de Lislet of New Orleans, a French lawyer of regular education in the profession, who has treated the subject, generally with great learning and abilities, and especially that branch of it which relates to the laws of France in cases of Alluvion. He has proved that the doctrines of these great authorities are not contradictory, and that a proper attention to the different questions under contemplation in the passages quoted, will show that all are right, and all in perfect harmony. To elucidate this he explains certain principles of French law, which mingling themselves with this subject, have occasioned the misunderstanding with which we have been perplexed. 1. The laws of France leave to the king a right to *navigable* rivers only, and their increments. On rivers *not navigable*, the rights of the riparian proprietor prevail as under the Roman law. See Pothier ante. pa. 26. Very early, however, these rights were drawn into question by the Feudal Superiors, who, looking to the example of the king in the case of *navigable* rivers in his kingdom, claimed similar rights on those *not navigable* within their Seignories. But repeated decisions have condemned their claims, and confirmed the rights of the riparian tenant. 2. By the laws of France, as by those of England, lands received by inheritance, descend, on the death of the tenant, to the heirs of that branch, paternal or maternal,

I will now proceed further and say, that had the batture been an alluvion, and to be decided by the

from which they came to him. But those he acquires by purchase (acquets) pass to that line of heirs of which himself is the root. When therefore, to a maternal inheritance an acquisition happened to be made by means of Alluvion, a question would arise, between heirs of different lines, to which of them the Alluvion would descend; whether to the direct heirs of the decedent, as being an acquisition first vesting in him, or to the maternal heir as an accessory to his inheritance. The decisions were that it united with the inheritance, became a part of that, and passed with it. "Incrementum alluvionis nobis adquiritur, jure quo ager augmentatus primum ad nos pertinebat; nec istud incrementum censetur novus ager sed pars primi." "The increment of Alluvion is acquired to us in the right in which the field augmented first belonged to us." Nor is the increment considered as a new field, but a part of the first, Renusson. It follows that questions of Alluvion would often arise in cases wherein the king's rights were not at all concerned. They would arise between Lord and vassal, and between individual heirs of different lines. These explanations premised, M. Moreau takes a review of the passages quoted from Henrys, Bourjon, Dumoulin, Ferriere, Pothier, Le Rasle, Renusson, Dargentré, Denisart, and Guyot, and shews that in every instance where the question concerned a *navigable* river, there was no division of opinions as to the validity of the king's right; and that in every instance where the riparian right is asserted, the question has been between private individuals, or concerning rivers *not navigable*. Recurring then to the edicts and Ordinances placing this right of the king beyond cavil, he observes that a practice had prevailed from early times among riparian proprietors of usurping on the rights of the crown to the increments adjacent to them, and a necessary reaction of the crown, by reclamations and resumptions, to preserve its own. And he gives a detail of the edicts on this subject, proving that that of 1693, instead of being the singular act of a particular prince, whom the adverse party delights to revile, was one only of a long series preceding and following it.

1554. An edict was issued requiring the proper officers to be vigilant in watching over the king's rights in islands, attérissements, et *alluvions*, comme ils l'ont accoutumés faire d'ancienneté.' So that it was even then a law and practice d'ancienneté, and expressly including *alluvions*.

1664. An Ordinance for making enquiries concerning islands, accroissements, etc.

Roman, instead of the French law, the conversion of the plantation of Gravier into a suburb, made it pub-

1668. Apr. An Edict quieting possessions of these objects of 100 years continuance, on paying a vingtième annually.

1669. The Ordinance des eaux et forêts, "qui accorde au roi la propriété de toutes *les rivières navigables*, de leur lit, *rives*, et de tous les terreins qui peuvents s'y former." Guyot, ante. pa. 27. "granting to the king the property in *all navigable rivers*, their bed, *banks*, and the grounds forming there."

1683. Apr. A declaration, reciting that as the rivers belong to the king "tout ce qui se trouve renfermé dans leur lit, comme les isles, accroissemens et attérissements lui appartient aussi," confirms *title* anterior to 1566 without condition, possessions anterior to 1566 on conditions, and reunites all others to the crown.

1686. Apr. } Two edicts for Languedoc and Bretagne, confirming pos-
1689. Aug. } sessors in the said islands, "ensemble des crémens qui s'y sont formés, et de ceux qui pourraient s'y former à l'avenir, soit par *alluvion*, on par industrie."

1693. An edict general for the kingdom "le droit de propriété que nous avons *sur tous les fleuves et rivières navigables* étant incontestable, etc. Ordonnons que les détenteurs des isles, islots, attérissemens, accroissemens, alluvions, etc. *sur* les *rivières navigables*, etc., as more at large, pa. 28.

1710. Feb. An edict confirming possession of islands, etc., of the sea on specified terms, copied almost verbally from that of 1693, using the word *alluvions* as that does, and referring to the provisions of that edict.

1722. Sep. An Arret resuming isles, attérissemens, etc., formed since the edict of 1693. And those of anterior formation where the possessor has not made the payments provided by the edict of 1693.

But this whole branch of the argument of M. Moreau must be read with attention. Its matters cannot be abridged, nor otherwise expressed, but for the worse.

Having thus luminously reconciled the authorities which had been so illy understood, and victoriously established the public right to alluvions on *navigable rivers*, M. Moreau, with too much facility, gives back to his adversary one-half the ground he has conquered, by a gratuitous admission, which those interested in the event of the cause are not ready to confirm. Led away, as it seems, by an expression in

lic property. And here I rejoin with pleasure the standard of M. Thierry, and avail myself of his lumi-

the edict of 1683, "tout ce qui se trouve renfermé *dans leur lit* nous appartient," and which is to be found in no other, and yielding to a single decision of the Parliament of Paris of 1765, found in a law dictionary, which adjudged that the Ordinances giving to the king the isles which are formed "*dans le lit*," des fleuves et rivières navigables, ne lui donnent pas les attérissements et *alluvions* qui peuvent se former *hors* le lit de ces mêmes fleuves," etc. He admits that though alluvions *within* the bed of a river belong to the king, those *without* the bed do not belong to him. M. Moreau is too reasonable to consider as a compliment to himself the adoption of an opinion on his authority alone, by any one not convinced by his reasonings. Certainly I do not feel myself competent to enter the lists with him, on any question of difficulty in the French law. Yet after maturely considering the authorities appealed to in this case, and which he has rendered so strong by reconciling and forming them into one mass, I cannot yield, as he does, so imposing a mass to a single decision of the single Parliament of Paris. I still must consider all alluvions on *navigable rivers* as belonging to the nation, and will briefly assign my reasons.

1. It is of the essence of *Alluvion* that it be, not *in* the bed of the river, but *out* of it; that is, adjacent to the bank. So say expressly the Roman and French definitions. "Alluivo est incrementum *agro* tuo flumine adjectum." "l'Alluvion est un accroissement de terrein qui se fait *sur les bords* des fleuves, par les terres que l'eau y apporte, et qui se consolident pour ne faire *qu'un tout avec la terre voisine*." Ante. pa. 26. Increments *within* the bed of a river, though sometimes carelessly spoken of under the term *alluvion*, are never so in correct language, never in the well weighed diction of ordinances and statutes. They are termed accroissements, attérissements, assablissements, isles, islots, javeaux, in French, and in our language shoals, shallows, flats, bars, islands. *Without* the bed of the river, they add to the beach, or to the adjacent field, according to their elevation, and in this last case only, constitute *Alluvion*, *within* the bed of the river they lose that name.

2. "Les alluvions qui se forment *dans* le lit des fleuves" is not the language of the edicts cited by Moreau himself, not even of that single one on which this opinion is founded. That has indeed the expression "dans les lits," but applied, not to alluvions, but to isles, accroissements, attérissements, to which it is applicable with truth and correctness. These are the kinds of increments it enumerates, and describes

nous discussion of this point. Were I fully to go into it, I could but repeat this matter. I shall therefore

as being "dans le lit." If they are enumerated *exempli gratiâ* only as the word *comme* seems to imply, and alluvions, though not named, were within the purview, as they are within the reason of the law, then, if the thing itself is to be understood, as if expressed in the text, its true description also is to be undertood as if expressed, that is to say, its adjacence to the bank. The edicts of 1686 and 1689 mention "les isles des rivières navigables, ensemble les crémens qui *s'y* sont formés." That of 1693 says, in like manner, "le droit, etc., *sur* tout les fleuves, et les isles et crémens qui *s'y* sont formes," and again, "isles et alluvions *sur* les rivières navigables," not "*dans leurs lits.*" That of 1710 says "possession des isles et *alluvion sur* les dites rivières." Thus we see that wherever the edicts mention *alluvions*, they dsecribe them *sur* le fleuve, not *dans le lit* du fleuve. When they speak of those increments which are *dans le lit* des fleuves, they name them as accroissemens, atterissemens, etc., but not as *alluvions*.

3. This distinction is founded on a single decision of a single parliament, and on the authority of a king's advocate, Bacquet, and the dictum of Salvaing there cited, all perhaps influenced by the same and single expression in the edict of 1683. It is cited too from a Dictionary by Prost de Royer, where it is doubtless stated in abridgment only, and possibly with the omission of circumstances, arguments, and expressions which, were they before us, would change the aspect of the case, as M. Moreau himself has shown to be so possible in his review of the mutilated authorities produced by the adversary. And are we, for this, to give up the doctrines of Pothier, Denisart, Ferriere, and the host of other great authorities, and all the definitions of the Roman and French laws, all of which when speaking of *alluvions*, place them exclusively on the borders, and not in the beds of rivers? I cannot do it.

4. This distinction is new in this cause, having never been claimed by the plaintiff or his counsel, or suggested by any other who has treated the question. This naturally begets a suspicion that it is peculiar; though doubtless the adversary will adopt it with avidity. And is he entitled to this gratuitous aid? Is it the equity of his cause, or even its honesty, or its utility, which gives him this claim on our tenderness? I cannot consent to a concession which gives the Batture from the public in the contingency of its being considered as a real alluvion, consolidated with, and making part of, the adjacent field. On the contrary I insist on the public right in this case also, under the

give but a summary view of it, and rest on his argument for its more detailed support.

The position laid down is that the Roman law gave alluvion only to the rural proprietor of the bank; urban possessions being considered as prædia limitata, limited possessions. The law which gives this right is expressed in the Insti- Rural and Urban

laws of France, as hitherto understood, and as declared by her highest authorities.

5. I adhere to this ground the more firmly, because I observe, from another part of his Memoire, pa. 99, that M. Moreau himself seems not very decided in this new opinion. After stating the mischief of Mr Livingston's works, he says, "it is to prevent a like abuse that the Roman and Spanish laws of haute police, which I have cited, are opposed to every species of works undertaken on the banks of rivers and navigable streams, the effect of which might be to extend the limits of riparian fields, compromising the public safety, and injuring the facility of navigation. It was with this view, and not to create fiscal resources for himself that Louis XIV. renewed the Ordinances which ascribed to the sovereign the property in rivers and navigable streams, and of whatever is contained in their bed. For if it be advantageous to navigation that the king should be proprietor of the islands which form themselves in navigable rivers, the same interest requires still more that he should be proprietor of the *alluvions* and increments formed *along the shore itself*, since any ownership of these objects, except that of the sovereign, might oppose obstacles to the free landing on the shore, which every one ought to have, and to the use of it which the law gives to the public."

Considering this admission then, as doubted by M. Moreau himself on a second and sounder view of it, I conclude that the law is accurately laid down by Pothier [ante. pa. 26.] "By our French law, alluvions formed on the borders of *navigable* streams and rivers belong to the king. The proprietors of riparian heritages can have no claim to them, unless they have documents of the grant made them by the king, of the right of alluvion along their heritages. With respect to alluvions formed along the borders of a river *not navigable*, the property of which belongs to the proprietors of the neighboring heritage, the dispositions of the Roman law are to be followed."

tutes in these words, "quod per alluvionem *agro* tuo flumen adjecit, jure gentium tibi adquiritur." Inst. 2. 1. 20. "What the river has added, *agro tuo*, becomes yours by the laws of nations." And the Digest 41. 1. 7. 1. in almost the same words says, "quod per alluvionem *agro* nostro flumen adjecit, jure gentium nobis adquiritur." In both instances it is to the possessor *agri* only that it is given. It becomes material therefore to understand rigorously the import of the word *ager*, in the Roman laws; and it happens that its definition is given critically by the same authority which uses it. "Locus sine ædificio, in urbe *area*, rure autem *ager* appellatur idemque *ager*, cum ædificio, *fundus* dicitur.' Dig. 50. 16. 211. "Quæstio est, fundus a possessione, vel agro, vel prædio quid distet?" Ib. 115 *in notis*, "fundus est ipsum solum: eo si utimur, prædium dicitur. *Ager* esse potest sine villa." "Ground, without a building, in a city is called *area*, but in the country *ager*." Pliny 1. 6. affirms that *ager* is derived from the Greek ἀγρὸς, of the same import. And in the Greek Pragmatics of Attaliata tit. 45. the law of alluvion uses "ἀγὸς" for ager. Τὸ ἀνεπαισθήτως διὰ τῆς ποταμῆς προσιεθὲν τῷ ἀγρῷ μῆ πρόσχωσις ἐστὶν ἤτοί πρόσκλυσις, καὶ ἐμοὶ ἁρμόζει." Quod insensibiliter τῷ ἀγρῷ μῆ per flumen adjectum est, alluvionis est, et mihi competit. "What is insensibly added by the river *agro meo* is alluvion [*adundatio*, *adaggeratio*] and belongs to me." In the same title "ὅπερ ἐν τῷ ἀγρῷσοῦ σπείρω σόν ἐστιν." "What I sow ἀγρῷ σῆ *agro tuo*, in your *field*, is yours." And Stephens, in

his Thesaur. ling. Gr. voce "Ἀγρὸς" translates it "rus, ager," "ἐν ἀγρῷ in agro, ruri. Ἐξ ἀγροῦ, ex agro, rure. Εἰς ἄγρον, in, agrum, rus." And he cites examples: "Νηυς δέ μοι ἥδ' ἔστηκεν ἐπ' ἀγροῦ, νόσφι πόληος," Hom. Od. 1. 185. "My vessel is stationed in the *country*, apart from the city." "Διὰ τὸ μὴ μεγάλας εἶναι τότε τὰς ΠΟΛΕΙΣ, ἀλλ' ἐπὶ τῶν "ΑΓΡΩΝ οἰκεῖν τὸν δῆμον ἄσχολον ὄντα" Aristo. Polit. 5. "Because, the *cities* not being then large, the people were occupied in the *country*, where ἀγρὸς is proved to be pointedly the contradiction to πόλις, to wit, the *country* to the *city*. From these definitions it appears that the word *ager*, in the law, constantly means a field, or farm, in the country, and that a city lot is called *area*. In towns, the whole bank and beach being necessary for public use, the private right of alluvion would be inadmissible; and the adverse counsel have been challenged [Thierry, 33.] to produce a single instance, under the Roman law, of a claim of Alluvion allowed in a city. To this might be added a similar challenge as to the laws of England .These give alluvion on rivers, as the civil law does, to the riparian proprietor. Bracton L. 2. c. 2. § 1. Fleta. L. 3. c. 2. Can they from the volumes of English law, with which they are so much more familiar, produce one single instance of the private right of alluvion allowed in a city? In England, I mean, and not in America, where special circumstances have prevented attention to the law on this subject, or the breach of it. And this must be from the reason of the thing alone, because the common law never

having been, like the civil law, reduced to a text, no verbal criticisms on a text can have co-operated against the claim.[1] Repeating, therefore, my refer-

[1] Since this was written, I have seen the case of Smart v. the magistrates, town council and community of Dundee, reported in 8 Brown's Reports of Appeals in parl. 119. This was an appeal from the court of Session in Scotland, to the H. of Lords. The crown of Scotland had in very ancient times, granted to the Corporation of Dundee, on the river Tay, the borough, with all the lands and pertinents, the privileges, profits, customs, ports, and liberties of the river on both sides, as freely in all respects as is possessed by the borough of Edinburgh over that of Leith, and in a word, as it seems, every right, power and trust which the crown could grant.—Smart, the proprietor of a lot bounded on one side per fluxum maris, or the sea flood, admitting that the sovereign, as trustee for the public, has a right to prevent all such appropriation of the sea shore, or the banks of navigable rivers as would impede navigation, render it dangerous or hurt the interests of commerce, either inland or foreign, and that all private persons or corporations, having a grant of a port and harbor, possess, to a certain extent, the same privileges as derived from the sovereign within a defined space, still he insisted on the right of the adjacent proprietor to ground gained from the sea by its recess, or by his own industry in embanking, or by any other opus manu factum, *not prejudicial to navigation or the established rights of others*. On the other hand the corporation claimed by their grant, a right to the seashore adjacent to the town, *in trust for the benefit of the community*, to make harbors, basons, and works for securing them, market places, wharves, wood yards, and other repositories for the accommodation of the trade, and, for these different works, to take in sites from the water by embankment, in short, as standing in place of the crown, that they succeeded to all the cares and powers of the crown, in the territory and its waters, for the public good; and, for that object, were now engaged in making an embankment adjacent to the Appellant's lot, for the benefit of navigation and commerce. They admit the general doctrine of the riparian right to the soil which may be acquired from a sea or river, by its receding naturally or by industry: but that this does not apply to the site of a *tenement within a burgh*, where the corporation is entitled to all the soil not expressly granted away: that the words, "per fluxum maris" are but words of description, which were accurate too at the date of the grant, but have since become otherwise by a change of character in the

ence to the reasoning and authorities of M. Thierry on this point, and my own conviction of their soundness, I consider it as established that, were this question to be decided by the Roman law, the conversion of the farm into a fauxbourg of the city passed to the public all the riparian rights attached to it while a rural possession and among these the right of alluvion.

And, if the right of alluvion is not given to urban proprietors, much less would it to a mere holder of the bed of a road. But did any one ever hear of a man's holding the bed of a road, and nothing else? Is it possible to believe that Bertrand Gravier, in selling his lots *face au*

Principal and accessory.

boundary, not in the area granted. They are a limitation of the subject of the grant in the same way as a road would be, which, if removed farther off, would not carry the granted subject with it; or as the tenement of another would be; and make it an *ager limitatus*, not an *ager arcifinius;* the particular boundaries being named, not to limit the coterminous property, but the property granted. The Appeal was accordingly dismissed by the House of Lords. No arguments of counsel, other than the written pleadings, nor reasons of the Lords, are reported: but, from this case, (crowded as it is with circumstances, many of which are irrelevant to the merits of the question, and of those relevant not the words but the condensed substance is here given,) the book says, that the general principle to be gathered is that "where the sea flood is stated as the boundary of premises granted on the shore of *a sea-port being an incorporated borough*, this does not give the grantee a right to follow the sea, or to the land acquired from it, or left by it where it has receded, in prejudice of the *corporation* having, by their charter, a right vested in them to the whole territory of the burgh." And consequently, in prejudice of the *king*, or *public*, where no such grant has substituted others in their place: and it authorizes a strong inference that the English, like the Roman law, restrains the right of alluvion to the *prædium rusticum*, not admitting it on the shores bordering the city.

fleuve, really meant to retain the bed of the road and levee? That a man, having a road on the margin of his land, which is its boundary, should mean to sell his land to the road, and to retain that by itself? a thing of no possible *use* to him, because the *use* being in the public, he could never employ it in agriculture or otherwise. Were all this possible, yet this bed of a road, this "labrum amnis" would be no *ager*, no field to which the right of alluvion could attach. That right is but an accessory, or, in the language of our law, an appendage or appurtenance, and an accessory, not to a mere line, but to something of which it can become a part. Had the law, therefore, ever given alluvion to any but the holder of an *ager*, of a field, yet the general doctrines of principal and accessory, would not have carried the benefit to Bertrand Gravier in this case. "Accessorium sequitur naturam sui principalis. Et in accessoriis, præstanda sunt quæ in principali. Accessorium non tenet sine principali. Sublato principali, tollitur et accessorium." These are maxims of the civil law. (Calvini lexicon jurid. "An accessory follows the nature of its principal." If the accession then be to a field, it becomes part of the field; if to a town, it would become part of the town; if to a road, the use of which belongs to the public, it would be to the road, and to the public. It must follow the nature of its principal, and become a part of that, subject to the same rights, uses and servitudes with that: and Bertrand Gravier had no right of use in the principal, that is, of the road and levee.

The equity on which the right of alluvion is founded is, that as the owner of the field is exposed to the danger of loss, he ought, as an equivalent, to have the chance of gain. But what equitable reason could there be, in the present case, for giving to Gravier the benefit of alluvion, when he could lose nothing by alluvion? If the levee and bank were washed away, they would not go to his plantation, back of the suburb, for a new one. The public would have to purchase a new bed for a road from the adjacent lot holders. Then "qui sentit onus, sentire debet et commodum."

But I do deny to the Batture every characteristic of Alluvion.

Bench or Batture not Alluvion.

The French and Roman law constituting that of the place, let us seek from them the definition of Alluvion. The Institute 2. 1. 20. gives it in these words, and the Digest. 41. 1. 7. § 1. in almost verbatim the same.

"Quod peralluvionem agro tuo flumen adjecit, jure gentium tibi adquiritur. Est autem alluvio incrementum latens. Per alluvionem autem id videtur adjici, quod ita paulatim adjicitur, ut intelligi non possit quadtum quoquo temporis momento adjiciatur."

"What the river adds by alluvion to your field becomes yours by the law of nature. Alluvion is a latent increase. That seems to be added by alluvion, which is so added by degrees, that you cannot conceive how much in each moment of time is added."

And in the Greek version of Theophilis, the words, "Alluvioest incrementum latens" are rendered "ἀλυδιων ἐςιν ἥ ηρόσκλυσις ἢ ηρόσχωσις," translated by Curtius

"Alluvio est adundatio vel adaggeratio." Retaining only the words of this paragraph which are definition it will stand thus.

"Alluvio est incrementum [*adundatio, adaggeratio*] agro tuo flumine adjectum, ita latens et paulatim, ut intelligi non possit quantum quoquo temporis momento adjiciatur."

"Alluvion is an increment [*adundation, ad-aggeration*] added by the river to your field, so latent and gradual, that the quantity added in every moment of time cannot be known."

This is the Roman definition.

In the Law Dictionary of the Encyclop. Method. *voce* "Alluvion," by Le Rasle, the definition is:

"Alluvion, un accroissement de terrein qui se fait peu-a-peu sur les bords de la mer, des fleuves, et des rivières, par les terres que l'eau y apporte, et qui se consolident pour ne faire qu'um tout avec la terre voisine."

"Alluvion, an increment of ground which is made by little and little on the border of the sea, rivers or streams, by earth which the water brings, and which is consolidated so as to make but one whole with the neighboring ground."

To reduce the essential members of the Roman and French definitions to a single one, according with our own common sense, for certainly we all understand what alluvion is, I should consider the following definition as comprehending the essential characteristics of both.

1. "Alluvion is an extension which the waters add insensibly.
2. By apposition of particles of earth.
3. Against the adjacent field.
4. And consolidate with it so as to make a part of it."

"Incrementum flumine adjectum latens et paulatim.

{ πρόσχωσις, adaggeratio.
{ πρόσκλυσις, adundatio.

Agro.

Qui se consolide pour ne faire qu'um tout avec la lerre voisine."

I take this to be rigorously conformable with the French and Roman definitions, as cited from the authorities before mentioned, and that it contains not one word which is not within their unquestionable meaning. Now let us try the batture by this test.

1. "Alluvion is an extension which the waters add insensibly." But the increment of the batture has by no means been *insensible*. Every swell of six months is said [Derb xix.] to deposit usually nearly a foot of mud on the whole surface of the batture, so that, when the waters retire, the increment is visible to every eye. And we have seen that, aided by Mr. Livingston's works, a single tide extended the batture from 75 to 80 feet further into the river, and deposited on it from 2 to 7 feet of mud, insomuch that a saw-scaffold, 7 feet high when the waters rose on it, was, on their retiring, buried to its top. This increment is, surely, not insensible. See the Mayor's answer to the Governor, Nov. 18, '08. MS.

2. "By *apposition* of particles of earth," or, by their *adhesion*. But the addition to the batture is by *deposition* of particles of earth on its face, not by their *apposition* or *adhesion* to the bank. It is not pretended that the bank has extended by apposition of particles to its side, one inch towards the river. It remains now the same as when the levée was erected on it. The deposition of earth on the bottom of a river, can be no more said to be an apposition to its sides, than the coating the floor of a room can be said to be plastering its walls.

3. "Against the adjacent field," la terre voisine. Not a particle has been added to the adjacent field. That remains as it was, bounded by the identical line, *crepido*, or *ora terræ*, which has ever bounded it.

4. "And consolidated with the field so as to make part of it." Un tout avec la terre voisine. Even supposing the continuity of the adjacent field not to be broken by the intervention of the levée and road, nothing is consolidated with it, not even with the *margo riparum*, or chemin de hallage, if there be any, between the levée and brim of the bank. No extension of its surface has taken place so as to form one with the former surface, so as to be a continuation of that surface, so as to be arable like that. The highest part of the batture, even where it abuts against the bank, is still materially below the level of the adjacent field. A terrass of some feet height still separates the field from the deposition called the batture. It is now as distinguishable from the adjacent field as it ever was, being covered with water periodically six months in the year, while that is dry. Alluvion is identified with the farmer's field, because of identity of character, fitness for the same use: but the batture is not fitted for ploughing or sowing. It is clear then that the batture has not a single feature of Alluvion; and divesting it of this misnomer, the whole claim of the plaintiff falls to the ground: for he has not pretended that it could be his under any other title than that of Alluvion.

We will now proceed to shew what it is, which will further demonstrate what it is not.

In the channel, or hollow, containing a river, the Roman law has distinguished the *alveus*, or bed of the river, and the *ripa*, or bank, the river itself being *aqua*, water. "Tribus constant flumina, alveo, aqua, et ripis." Dig. 43. 12. not. 1. All above high water mark they considered as *ripa*, bank, and all below as *alveus*, or bed. The same terms have the same extent in the language of our law likewise. But we distinguish, by an additional name, that band, or margin of the bed of the river, which lies between the high and the low water marks. We call it the *beach*. Other modern nations distinguish it also. In Spanish it is *playa*, Ital. *piaggia*, in French *plage*, in the local terms of Orleans it is *batture*, and sometimes *platin*.[1] In Latin I know

Bed, Beach, Bank.

[1] Etymologies often help us to the true meaning of words; and where they agree in several languages, they shew the common sense of mankind as to the meaning of the word. In French *Batture* is derived from *Battre*, to beat, being the margin on which the surges beat. In English *Beach*, is from the Anglo-Saxon verb Beodian, Beacian, beatian, to beat: pronounced beachian, as christian, fustian, question, are pronounced chrischian, fuschian, queschion, etc.

In Spanish *Playa*, Italian *Piaggia*, French *Plage*, } are from πλαγὰ, πληγεὶς.

Platin from πλήττειν, percuture. Perhaps from *Plat*, F. flat.

Greek, ἀιγειαλὸς, ἀκτή, from ἄγειν, agree.

θὶν, θινὸς, à θείνω, ferio, quia littus fluctibus feritur. Clav. Homer. A. 34.

Ῥηγμῖν, à ῥήσσω, frango. quia in litore fluctus frangitur. Ib. v. 437.

of no term which applies exactly to *the beach of a river*. *Litus* is restrained to *the shore of the sea*, and there comprehends the beach, going to the water edge, whether at high or low tide. "*Litus* est maris, *ripa* fluminis," says Vinnius in his Commentatory on the Inst. 2. 1. 4. and he confirms this difference of extent towards the water, ibid. where he says,

"Neque verò idem est *ripa in flumine*, quod *litus in mari*. Ripa flumini non subjicitur, ut litora subjiciuntur mari, et quotidianis accessibus ab eo occupantur."

"Nor is the bank of a river, and the shore of the sea, the same thing. The bank is not subjacent to the river as the shores are to the sea, which are occupied by it in its daily accesses."

In our rivers, as far as the tide flows, the beach is the actual, as well as the nominal bed of the river, during the half of every day. Above the flow of tide, it is covered half the year at a time, instead of half of every day. The tide there being annual only, or one regular tide in a year. This, in the State where I am, begins about the first of November, is at its full tide during the months of January and February, and retires to its minimum by the end of April. In other States from North to South, this progression may vary a little. Hence we call them the Summer and Winter tides, as the Romans did theirs, *hibernus et æstivus*. The Mississippi resembles our fresh water rivers in having only one regular swell or tide a year. It differs from them in not being subject to occasional swells. The regions it waters are so vast that accidental rains and droughts in one part are countervailed by contrary accidents in other parts, so as

never to become sensible in the river. It is only when all the countries it occupies become subject to the general influence of summer or winter, that a regular and steady flood or ebb takes place. It differs too in the seasons of its tides, which are about three months later than in our rivers. Its swell begins with February, is at its greatest height in May, June, and July, and the waters retire by the end of August. Its high tide, therefore, is in summer, and the low water in winter. Being regular in its tides, it is regular also in the period of its inundations. Whereas in ours, although the natural banks rarely escape being overflowed at some time of the season, yet the precise time varies with the accident of the fall of rains. But it is not the name of the season but the fact of the rise and fall which determine the law of the case.

Now the batture St. Mary is precisely within this band, or margin, between the high and low water mark of the Mississippi, called the beach. It extended from the bank into the river from 122 to 247 yards, before Mr. Livingston began his works, and these have added in one year, from 75 to 80 feet to its breadth. This river abounds with similar beaches, but this one alone, from its position and importance to the city, has called for a legal investigation of its character. Every country furnishes examples of this kind, great or small; but the most extensive are in Northern climates. The beach of the Forth, for example, adjacent to Edinburgh, is a mile wide, and is covered by every tide with 20 feet water. Abund-

ance of examples of more extensive beaches might be produced; many doubtless from New Hampshire and Maine, where the tide rises 40 feet. This therefore of St. Mary is not extraordinary but for the cupidity which its importance to the city of New Orleans has inspired.

I shall proceed to state the authorities on which this division between the bank and bed of the river is established, and which makes the margin or beach a part of the bed of the river.

"Ripa est pars extima alvei, quò naturaliter flumen excurrit." Grotius de Jour. B. et P. 2. 8. 9.

"Ripa ea putatur esse quæ *plenissimum* flumen continet." Dig. 43. 12. 3. And Vinnius's commentary on this passage is "ut significet, partem ripæ non esse, spatium illud, ripæ proximum, quod aliquando flumine, caloribus minuto æstivo tempore non occupatur."

"Ripa autem ita rectè definietur, id quod flumen continet naturalem rigorem[1] cursus sui tenens Cæterùm si quando vel imbribus, vel mari, vel quâ alia ratione, ad tempus excrevit, ripas non mutat. Nemo denique dixit Nilum, qui incremento suo Ægyptum operit, ripas suas mutare, vel ampliare. Nam cum ad perpetuam sui mensuram redierit, ripæ alvei ejus

"The bank is the outermost part of the bed in which the river naturally flows."

"That is considered to be bank, which contains the river when *fullest*," and Vinnius's commentary on this passage is "this signifies that the space next to the bank, which is sometimes not occupied by the river, when reduced by heats in the summer season, is not a part of the bank."

"The bank may be thus rightly defined, that which contains the river holding the natural direction of its course. But, if at any time, either from rains, the sea, or any other cause, it has overflowed a time, it does not change its banks. Nobody has said that the Nile, which by its increase covers Egypt, changes or enlarges its banks. For when it

[1] Rigor, à rectitudine dicitur, et est cursus aquæ rectum profluentis tenorem significans. Sic vigor stillicidii rectus ejus fluxus est. Calvini Lexicon juridicum, *rigor*. I have therefore translated it "direction."

muniendæ sunt." Dig. 43. 12. §. 5.

"Alveus flumine tegitur." Grot de jur. B. ac P. 2. 8. 9.

"Alveus est spatium illud flumini subjectum per quod fluit." Vinnii Partitiones jur. Civil. 1. 17.

has returned to its usual height, the banks of its bed are to be secured."

"The bed is covered by the river."

"The bed is the space, subjacent to the river, through which it flows."

Litus, in the Roman law, being the beach or shore of the sea, "rivage," definitions of that will corroborate the division between the *ripa* and *alveus*, *bed* and *bank* of a river. In both cases what is covered by the highest tide belongs to the public, all above it is private property.

"Litus est quousque maximus fluctus à mari pervenit. Idque Marcum Tullium aiunt, cum arbiter esset, primum constituisse." Dig. 50. 16. 96.

"Est autem litus maris quatenùs hibernus fluctus maximus excurrit." Inst. 2. 1. 3. the paraphrase of Theophilus adds, "undè et æstate, usque ad ea loca litus definimus," and his Scholiast subjoins "non ut mediis caloribus solet, sed hibernus; quoniam hieme protissimum mare turbatur, mare est undabundum."

"The shore is as far as the greatest wave of the sea reaches; and it is said that Marcus Tullius first established that when he was an Arbiter."

"The shore of the sea is as far as the greatest winter wave reaches." The paraphrase of Theophilus adds, "wherefore, in summer also, we bound the shore by the same limits, and his Scholiast subjoins, "not the wave of midsummer, but of winter; because the sea is most agitated, and most swelled."

"By *shore*, the Institutes mean up to the high-water mark, or (where little or no tides, as in the Mediterranean) as high as the highest winter wave washes. 1. Brown's Civil and Admiralty law. B. 2. c. 1.

We must not, however, with Mr. Livingston, pa.

61, seize on the single word "hibernus," in the last quotations, and sacrifice to that both the fact, and the reason of the law. The substance of the *fact* on which the law goes, is that there is a margin of the bed of the river, covered at high water, uncovered at low. The season when this happens is a matter of circumstance only, and of immaterial circumstance. In the rivers familiar to the Romans the *maximus fluctus*, or highest wave, was in the winter; in the Mississippi it is in summer. Circumstances must always yield to substance. The *object* of the law is to reserve that margin to the public. But to reduce, with Mr. Livingston, the public right to the Summer water-line would relinquish that object. The explanations quoted from Vinnius, from Theophilus and his Scholiast, prove from the reason of the law, that the law of the winter tide for the Po, and the Tyber, must be that of the Summer tide of the Mississippi. The Spanish law therefore, is expressed in more correct terms; and we have the authority of Mr. Livingston [ibidem] for saying that the Justinian code is the common law of Spain.

"La ribera del rio se entiende todo lo que cubre el agua de el, quando mas crece, en qualquiera tiempo del año, sin salir de su yema y madre." Curia Philipica. 2. 3. 1. cited Derb. 46.

"The bank of a river is understood to be the whole of what contains its waters, when most swelled, in whatsoever time of the year, without leaving its bed or channel."

This is the law correctly for all rivers, leaving to every one its own season of flood or ebb.

To these authorities from the Roman and Spanish law, I will add that of the French Ordinance of 1681. § 43. Art. 1. on the same subject.

"Sera réputé bord et rivage de la mer, tout ce qu'elle couvre et découvre [precisely the beach or batture] pendant les nouvelles et pleines lunes, et jusqu'ou le grand flot de mer cesse de s'y faire sentir. Il est facile de connoître jusqu'ou s'étend ordinairement le grand flot de Mars, par le gravier qui y est déposé; ainsi il ne faut pas confondre cette partie avec l'espace où parvient quelque fois l'eau de la mer par les ouragans, et par les tempêtes. Ainsi jugé à Aix le 11. Mai 1742." Boucher, Institut au droit Maritime 2713. Nouveau Commentaire sur l'Ordonnance de la Marine. de 1681. tit. 7. Art. 1.

"The border and shore of the sea shall be reputed to be the whole which it covers and uncovers [precisely the beach or batture] during the new and full moons, and as far as to where the full tide of the sea ceases to be perceived. It is easy to know how far ordinarily the full tide of March extends; by the gravel which is deposited there; therefore we must not confound that part with the space where the waters of the sea come sometimes in hurricanes and storms." So adjudged at Aix, May 11, 1742.

Let us now embody those authorities, by bringing together the separate members, making them paraphrase one another, and form a single description. The Digest 43. 12. 3. with Vinnius's comment will stand thus. "The bank ends at the line to which the water rises at its full tide; and although the space next below it is sometimes uncovered by the river, when reduced by heats in the summer season, yet that space is not a part of the bank." Now, substituting for "the heats of the summer season" which is circumstance, and immaterial, the term "low water," which is the substance of the case, nothing can more perfectly describe the beach or batture, nor

collated with the other authorities, make a more consistent and rational provision. "The bank ends at that line on the levée to which the river rises at its full tide: and although the batture or beach next below that line is uncovered by the river, when reduced to its low tide, yet that batture or beach does not therefore become a part of the bank, but remains a part of the bed of the river," for says Theophilus "even in low water [et æstate] we bound the bank at the line of high water." Inst. 2. 1. 3. "The bank being the *extima alvei*, the *border of the bed*, within which bed the river flows when in its fullest state *naturally*, that is to say, not when "imbribus, vel quâ aliâ ratione, ad tempus, excrevit," not when "temporarily overflowed by extraordinary rains, etc." Dig. 43. 12. 5. but "quando mas crece, sin salir de su madre, en qualquiera tiempo del año," "when in its full height, without leaving its bed, to whatsoever season of the year the period of full height may belong." This is unquestionably the meaning of all the authorities taken together, and explaining one another.

From these authorities, then, the conclusion is most rigorously exact, that all is river, or river's *bed*, which is contained between the two banks, and the high water line on them; and all is *bank* which embraces the waters in their ordinary full tide.

Agreeably to this has been the constant practice and extent of grants of lands on the Mississippi. Charles Trudeau swears [Liv. 57.] that "during twen-

ty-eight years that he has performed the functions of Surveyor General of this province, it has always been in his *knowledge*, that the grants of lands on the borders of the Mississippi, have their fronts on the *edge* of the river itself, and when its waters are *at their greatest height*." And Laveau Trudeau [Liv. 58.] that "the concession to the Jesuits, he believes, was like all the others, that is, from the river at its greatest height."

Thus we see what the law is; that it has been perfectly understood in the territory, and has been constantly practiced on, and consequently that neither the grant to the Jesuits, nor to Bertrand Gravier, could have included the beach or batture.

It will perhaps be objected that, establishing the commencement of the bank at high water mark, leaves in fact no bank at all, as the high water regularly overflows the natural bank or brim of the channel. And will it be a new phenomenon to see a river without banks sufficient to contain its waters at their full tide? The Mississippi is certainly a river of a character marked by strong features. It will be very practicable, by exaggerating these, to draw a line of separation between this and the mass of the rivers of our country, to consider it as *sui generis*, not subject to the laws which govern other rivers, but needing a system of law for itself. And until this system can be prepared it may be abandoned to speculations of death and devastation like the pres-

Mississippi.

ent. But will this be the object of the sound judge or legislator? it is certainly for the good of the whole nation to assimilate as much as possible all its parts, to strengthen their analogies, obliterate the traits of difference, and to deal law and justice to all by the same rule and same measure. The *bayous* of that territory and of the country thence to Florida Point are without banks to contain their full tides. The Mississippi is in the like state as far as Baton Rouge, where competent banks first rise out of the waters, and continue with intervals of depression to its upper parts. Many of the rivers of our maritime states are under circumstances resembling these. The channel which nature has hollowed for them is not yet deep enough, or the depositions of earth on the adjacent grounds not yet sufficiently accumulated, to raise them entirely clear of the flood tides. Extensive bodies of lands, still marshy therefore, are covered by them at every tide. In some of these cases, the hand of man, regulated by laws which restrain obstructions to navigation and injury to others, has aided and expedited the operations of nature, by raising the bank which she had begun, and redeeming the lands from the dominion of the waters. The same thing has been done on the Mississippi. An artificial bank of 3, 4, or 5 feet has been raised on the natural one, has made that sufficient to contain its full waters, and to protect a fertile and extensive country from its ravages. These are become the real banks of the river, on

which the laws operate as if the whole was natural. The Nile, like the Mississippi, has natural banks, not competent in every part to the conveyance of its waters. In these parts artificial banks are, in like manner, raised, through which and the natural bayous and artificial canals the inundation, when at a given[1] height, is admitted; this being indispensable to fertilize the lands in a country where it never rains. And these banks of the Nile, natural and artificial, are recognized as such by the Roman law, as appears in a passage of the Digest before cited, declaring that its banks, though inundated periodically, are not thereby changed. Nor are those of our rivers when temporarily overflowed by rains, or other causes. Wherever, therefore, the banks of the Mississippi have no high water line, the objection is of no consequence, because the lands there are not as yet reclaimed or inhabited; and wherever they are reclaimed, the objection is not true; for there a high-water line exists to separate the private from public right.[2]

Nile.

[1] Justum incrementum [Nili] est cubitorum XVI; in XII. cubitis famem sentit: in XIII etiamnum esurit: XIV cubita hilaritatem afferunt: XV securitatem: XVI delicias: maximum incrementum, ad hoc ævi, fuit cubitorum XVIII. cum stetêre aquæ, apertis molibus admittuntur. Plin. hist. nat. 5. 9.

[2] This part of our subject merits fuller development. That the periodical overflowings of some rivers do not differ from the accidental overflowings of others, in any circumstance which should affect the law of the high water line, in the one more than in the other, will be rendered more evident by taking a comparative view of them. To begin with ordinary rivers. 1. These have along their greater part, and some of them through their whole course, natural banks adequate

Property in bed and bank.

Having ascertained what the batture is not, and what it is, and established the high water mark as the line of partition between the bed and bank of the river, we will proceed to the confinement of their waters, in the high water season, except in cases of accidental inundation. Here, then, the Roman authorities tell us the inundation does not change the bank, nor the landmark on it. 2. Along other parts, where the natural bank was not high enough to contain the river in its season of steady high water, the hand of man has raised an artificial bank on the natural one, which effects this purpose, with the exception as before, of accidental inundations, where such happen. This artificial bank performs all the functions of the natural, and is placed under the same law. 3. In other parts of them, the natural banks are still not high enough to contain the high tides, nor have they yet been made so by the hand of man. Here then the law cannot operate, because the local peculiarities as yet, exclude the case from its provisions. The ground so covered by inundation, has been, or may yet be, public property. But the legislator, instead of holding it as the bed of the river, grants it to individuals as far as to the natural or incipient bank, that they, by completing the bank, may reclaim the land, for their own and the public benefit, and, this done, the law comes into action on it. Much of this reclaimed, and unreclaimed land exists in all these states.

I proceed next to rivers of particular character. Of which among those analogous to the Mississippi, the Nile is best known to us, and shall be described. That river entering Upper Egypt at its Cataracts, flows through a valley of 20 or 30 miles wide, and of 450 miles in length, bounded on both sides by a continued ridge of mountains. Through most of this course, its natural banks are sufficient to contain its waters in time of flood, till they rise to that height, at which, by their law they are to be drawn off. In low parts, where the natural banks are not sufficient, they have been raised by hand to the necessary height. In addition also to the natural *bayous*, like those of the Mississippi, they have opened numerous canals, leading off at right angles from the river towards the mountains, and sufficient to draw off the greatest part of the current passing down the river. These, in ordinary times, are closed by artificial banks raised to the level of the natural ones. When the flood is at a height sufficient for irrigating, and fertilizing the fields, which by the Nilometer is at 16 cubits above the bed of the river, these artificial banks are cut, and the waters let in. The plain declining

to examine to whom belongs ground on either side of that line?

gently from the banks of the river, (which, like those of the Mississippi, are the highest ground,) towards the mountains, the waters are there stopped, as by a dam, and continue to rise, and diffuse themselves till they reflow nearly to the bank of the river. If the rise ceases there, the waters remain stagnant, and deposit a fertilizing mud, over the whole surface. But if uncommon rains above occasion a continuance of the rise till all the waters meet over the summits of the banks, then the motion of that in the river is communicated to the stagnant water on the plains, a general current takes place, and instead of a depositum left, the former soil is swept away to the ocean, and famine ensues that year. This, the traveller Bruce informs us, had happened three times within the 30 years preceding his being in that country. When the waters have withdrawn, and the river is returned into its natural bed, the banks are repaired in readiness to restrain the floods of the ensuing year. Such is the case in Upper Egypt. When the river enters Lower Egypt, it parts into two principal branches, the Pelusian and Canopic, which diverge and reach the Mediterranean at about 200 miles apart, including between the triangle called the Delta. Besides these, there are, within the Delta, three natural *Bayous*, and two canals, dry at low water, which make up the famed seven mouths of the Nile. The mountains diverge so as do the main branches of the river, the eastern going off to the isthmus of Suez, and the Western to the sea near Alexandria. The waters lessened by depletion, and spreading over a widening plain are reduced, by the time they reach the base of the triangle at the sea, to one or two cubits depth. Banks, therefore, of 3 to 4 feet high, are sufficient to protect the country until here also they open the *bayous* and canals which intersect the triangle. Here, then, the case recurs of a river whose natural banks are partly competent to contain its high waters in common floods, and are partly made so by the hand of man; so as to furnish an ordinary high water line. In extraordinary floods it overflows these banks, and in ordinary ones is let through them. Yet these inundations as the Digest declares, do not change the banks. "Nemo dixit Nilum ripas suas mutare," etc. But when the river retires within its natural bed, the banks are again repaired: "cum ad perpetuam sui mensuram redierit, ripæ alvei ejus muniendæ sunt," ib. [See 2. Herodot. 6—19. Strabo 788. 1 Univ. Hist. 391—413. 1 Maillet Description de l'Egypte 14—121. 1 De la Croix 338. Encyclop. Meth. Geographie. Nil. 1 Savary 3—14. 2 Savary 185—275. 1 Volney 34—48. 4 Bruce 364—407.]

And 1. As to the bed of the river, there can be no question but that it belongs purely and simply to the sovereign, as the representative and trustee of the nation. If a navigable river indeed deserts its bed, the Roman law gave it to the adjacent proprietors; the former law of France to the sovereign; and the new code gives it as an indemnity to those

1. The Upper Missisippi, like the Upper Nile, has competent natural banks through probably three-fourths of its whole course. There, then, the Roman law is applicable in its very letter. 2. For about 400 miles more, the natural banks have been aided by artificial ones, on both sides, so as to contain all the waters of the flumen plenissimum: and the inhabitants there have no occasion as those of the Nile, to open their banks for the purpose either of fertilizing, or irrigating the lands. Here, then, is still less reason, than in the case of the Nile, to say that "the Mississippi there has changed its bank." 3. On the lower parts of the Mississippi and some of its middle portion, especially on the western side, artificial banks have not yet been made, and the country is regularly inundated, as it is on those parts of our Atlantic rivers not yet embanked. But our increasing population will continue to extend these banks of our Atlantic rivers; and, for this purpose, our governments grant the lands to individuals. And the same, we know, is done on the Mississippi. The *Cyprieres* adjacent to New Orleans, for example, though covered with the refluent water from the lake, we know have been granted to individuals, and will, with the rest of the drowned lands, be reclaimed in time, as all lower Egypt has been.

Thus, then, we find the laws of the Tyber and Nile transferred and applied to the Mississippi with perfect accordance, and that all rivers may be governed by the same laws. Other rivers are subject to accidental floods, which are declared however not to disturb the law of the *plenissimum flumen*. The Nile and Mississippi, not being subject to accidental floods, the *flumen plenissimum* with them is steady and undisturbed, and needs not the benefit of the exception. Nor will the reason of the law be changed, whether the cause of the inundation be the saturation of the earth and fountains, or rains, or melted snows, or the reflux of the ocean. The principle remains universally the same, that the land mark, when once established by a competent bank, is not changed by the inundation, or by any cause or circumstance of its high waters.

through whose lands the new course is opened. But, while it is occupied by the river, all laws, I believe, agree in giving it to the sovereign; not as his personal property, to become an object of revenue, or of alienation, but to be kept open for the free use of all the individuals of the nation.

"Flumina omnia, et portus, publica sunt." Inst. 2. 1. 2.

"Impossibile est ut alveus fluminis pub ici non sit publicus." Dig. 43. 12. 7.

"Litus publicum est eatenùs qua maximus fluctus exæstuat." Dig. 50. 16. 96. 112.

"All rivers and ports are public."

"It is impossible that the bed of a public river should not be public."

"The seashore is public as far as the greatest wave surges."

And "litus" we have seen is the beach or shore of the sea.

"As to navigable streams and rivers, on which boats can ply, the property of them is in the king, as an incontestable right, naturally attached to the sovereignty; and since public things belonged to the people in the Roman republic, amongst us [in France] they must belong to our Sovereigns." Julien, cited by Thierry 10. And Prevost de la Jannès, in his Principles of French Jurisprudence, after having said that the property of public things belongs to the king adds "subject to the use thereof that is due to the people." Thierry, ib.

In like manner, by the common law of England, the property, *tam avuæ quam soli*, of every river, having flux or reflux, or susceptible of any navigation, is in the king; who cannot grant it to a subject.

because it is a highway, except for purposes which will increase the convenience of navigation. "The king has a right of property to the sea shore, and the *maritima incrementa.* The *shore* is the land lying between high water and low water mark in ordinary tides, and this land belongeth to the king *de jure communi*, both in the shore of the sea, and shore of the arms of the sea. And that is called an arm of the sea where the tide flows and reflows, and so far only as the tide flows and reflows." Hale de jure maris. c. 4. cited in Bac. Abr. Prærog. B. 3.

So that I presume no question is to be made but that the bed of the Mississippi belongs to the sovereign, that is, to the nation.

2. In the bank, from the high water line inland, it is admitted that the property or ownership, is in the Riparian proprietor of the adjacent field or farm: but the use is in the public, for the purposes of navigation and other necessary uses.

"Riparum quoque usus publicus est jure gentium [i. e. gentis humanæ] sicut ipsius fluminis: itaque naves ad eas appellere, funes arboribus ibi natis religare, onus aliquod in his reponere, cuilibet liberum est, sicut per ipsum flumen navigare. Sed proprietas earum, illorum est, quorum prædiis hærent: quâ de causâ arbores quoque in eisdem natæ eorundem sunt." Inst. 2. 1. 4. And Vinnius adds "non ut litora maris, ita ripas, conditionem fluminis sequi."

"The use of the bank is public by the law of nations [i. e. of nature] as to navigate the river itself. Therefore it is free for every one to bring his ships to at them, to make fast ropes to the trees growing there, to discharge any load on them. But the property of them is in those to whose farms they adhere; for which reason the trees likewise growing on them, belong to the same." And Vinnius adds "the banks do not, like the shores of the sea, follow the condition of the river."

"Publica sunt flumina, portus, alveus fluminis quamdiu à flumine occupatus, ripæ. Harum rerum omnium, proprietas nullius, si ripas exciperis, quarum proprietas eorum est qui propè ripam prædia possidunt." Vinnii Part. jur. L. 1. c. 17.

"Rivers, harbors, the beds of rivers as long as occupied by the river, and the banks are public. The property of all these is in no one, if you will except the banks, the property of which is in those who possess the farms on the bank."

"Rivers, streams, high roads belong to all men in common; and although the soil of the banks of the rivers be an accession to the property of the owners of the contiguous land, yet all men may make use of them so far as to make fast their vessels to the trees which grow there, to repair them, and spread their sails on the banks; and they may there discharge their goods. Fishermen have also a right to dry their nets there, to expose their fish for sale on the banks, and in general to use them for every purpose of their art, or the occupation by which they live." 3 Part id. 28. 6. cited Thierry 9.

"The same usefulness of the navigation of rivers demands the free use of their banks, so that in the breadth and length necessary for the passage and track of the horses which draw the boats, there be neither tree planted nor any other obstacle in the way." Domat, Pub. law. 1. 8. 2. 9. To moor their vessels, spread their sails, unlade, sell their fish, etc., are here mentioned for example only, and not as a full enumeration of the variety of uses which, flowing from the public rights, may be exercised by them. In England it is said to have been decided that the public have no *common-law* right

to tow upon the banks of navigable rivers. 3 Term. Rep. 253. cited Bac. Abr. highways A.

These authorities are so clear that they need no explanation. The text is as plain as any commentary can make it.

But there is an important limitation to these rights. Every individual is so to use them as not to obstruct others in their equal enjoyment. The space every one occupies on the bank or bed, as in a highway, a market, a theatre, is his for reasonable temporary purposes, but not to be held permanently. The adjacent landholder may repair or fortify his bank to protect his land from inundation, but under the control of the magistrate, that his neighbors be not injured. He cannot divert the course of the stream, or even draw off water from it, to the injury of the navigation; nor erect any work which shall incommode the harbor or quai.

Limitations of the rights of property.

"Ne quid in flumine publico, ripâve ejus, facias, ne quid in flumine publico, neve in ripa ejus immittas, quo statio, iterve navigio deterior sit. Dig. L. 43. t. 12. l. 1. Stationem dicimus a statuendo: is igitur locus demonstratur, ubicunque naves tutò stare possunt. ib. § 13.

"Deterior statio, itemque iter navigio fieri videtur, si usus ejus corrumpatur, vel difficilior fiat, aut minor, vel rarior, aut si in totum auferatur. Proinde, sive

"You are not to do any thing in a public river, or on its banks, you are not to cast any thing into a public river, or on its banks, which may render the station, or course of a ship worse. It is called a *station*, from statuere, to place: that place is intended where ships may safely stay.

"The station and course of a ship seems to be rendered worse, if its use be destroyed, or made more difficult, or less, or scantier, or if it be wholly taken away.

derivatur aqua, ut exiguior facta minus sit navigabilis, vel si dilatetur, aut diffusa, b evem aquam faciat; vel contra sic coangustetur, et rapidius flumen faciat; vel si quid aliud fiat, quod navigationem in_ommodet, difficiliorem faciat, vel prorsus impediat, interdicto locus erit." Dig. 43. 12. 15.

"Molino, nin canal, nin casa, nin torre, nin cabaña, nin otro edificio ninguno, non puede ninguno home facer nuevamente en los rios por los quales los homes andan con sus navios, nin en las riveras dellos, porque se embarrasse el uso comun dellos. E si alguno lo ficiesse y de nuevo, ó fuesse fecho antiguamente, de que viniesse daño al uso comunal, *debe ser deribado.* Ca non seria cosa guisada que el pro de todos los omes communalmente se estorbasse por la pro de algunos." Partidas. 3. 28. 8. cited Derb. 48. Poydras 12.

Moreove:, if water be drawn off, so that, being scantier, it is less navigable, or if it be dilated, or spread out, so as to make the water shallow, or if on the other hand it be so narrowed as to make the river more rapid; or if any thing else be done which incommodes the navigation, makes it worse, or wholly impedes it, there is ground for Interdict."

"Mill, nor canal, nor house, nor tower, nor cabin, nor other building whatsoever, may any man make newly in the rivers along which men go with their vessels, nor on their banks, by which their common use may be embarrassed. And if any one does it anew, or were it anciently done, so that injury is done to the common use, it ought *to be destroyed.* For it would not be meet that the benefit of all men in common should be disturbed for the benefit of some."

The owner of lands on the bank of a river may, however, make or repair a bank to protect them from the river.

"Quamvis fluminis naturalem cursum, opere manu facto alio, non liceat avertere, tamen ripam suam adversus rapidi amnis impetum, munire prohibitum, non est." Codex L. 7. t. 41. § 1.

"Although it is not allowed to turn the natural course of a river by another made by hand, yet it is not prohibited to guard one's bank against the force of a rapid river."

But he is not permitted to do even this if it will affect the public right, or injure the neighboring inhabitants.

"In flumine publico, inve ripâ ejus facere, aut in id flumen ripamve immittere, quo *aliter* aqua fluat quam priore æstate fluxit, veto." Dig. L. 43. tit. 13. § 1.

"Quod autem ait, *aliter* fluat non ad quantitatem aquæ fluentis pertinet, sed ad modum, et ad rigorem cursûs aquæ referendum est. Et si quod aliud vitii accolæ ex facto ejus qui convenitur sentient, interdicto locus erit." Ib. § 3.

"Sunt qui putent excipiendum hoc interdicto 'quod ejus ripæ muniendæ causa non fiet,' scilicet ut si quid fiat quo aliter aqua fluat, si tamen muniendæ ripæ causâ fiat, interdicto locus non sit. Sed ne hoc quibusdam placet; neque enim ripæ, cum incommodo accolentium, muniendæ sunt." Ib. § 6.

"I forbid any thing to be done in a public river, or on its bank, or to be cast into the river or on its bank, by which the water may be made to flow otherwise than it flowed in the last season."

"When he says, *to flow otherwise*, it relates, not to the quantity of water, but to the manner and direction of the course of the water. And if the neighbors experience any other evil from the act of him who is convened, there will be ground for interdict."

"Some think liable to this interdict only 'what is not done for the purpose of strengthening the bank,' to wit, that if anything be done by which the water may otherwise flow, if nevertheless it was to secure the bank, there is no ground for interdict. But this is not approved by others, for that banks are not to be secured to the inconvenience of the inhabitants.'

More particularly full and explicit as to the inhibitions of the law against obstructing the bed, beach or bank of a sea or river, is Noodt, Probabil. Juris civilis. 4. 1. 1. After declaring that as to a house, or other such thing, built in a public river, the law is the same as obtains as to the sea and sea shore, he proposes to state, 1. The law respecting the sea and its shore, and 2. As it respects a river and its bank; and says,

"Ait Celsus maris communem usum esse, ut aëris; jactasque in id pilas fieri ejus qui jecit: sed id

"Celsus says that the use of the sea is common, as is that of the air: and that stones laid in it were

concedendum non esse, si deterior litoris marisve usus eo modo futurus sit.

Adeo hoc quod in mari exstructum est, facientis est. Ut tamen exstruere liceat, et *decreto opus est*, et *ut innoxia ædificatio sit.*

Porrò ut usus maris, ita usus litoris, sive communis, sive publicus est jure gentium; et ideò licet unicuique in litore ædificare, litusque ædificatione suum facere.

Si tamen, ut in mari, ita in litore, *impetravit:* præterea si non eo modo deterior futurus sit usus litoris; vel nisi usus publicus *impedietur*. Hoc in mari litoribus jus est. Idem in fluminibus publicis, Ulpiano teste, Dig. 39. 2. 24. cum sic ait, 'fluminium publicorum communis est usus, sicut viarum publicarum et litorum. In his igitur *publicè* licet cuilibet ædificare, et distruere, dum tamen hoc sine incommodo cujusquam fiat.'

Vult tamen Ulpianus, ut ædificari possit, ædificari *publicè* et *sine cujusquam incommodo;* pariter ut in mari et litore definitum: *publicè* inquam, seu *publicâ auctoritate;* id enim hoc verbum, *publicè* indigitat."

And (§ 2.) citing Dig. 43. 12. 4. he says, "quæsitum est, an is, qui in utrâque ripâ fluminis publici domus habeat, pontem privati juris [vel privato jure] facere potest; respondit non posse.

Et si facit, interdicto teneri. Causa responsi est quod, cum

his who laid them, but that it was not to be admitted if the use of the shore or sea would be the worse. So what is constructed in the sea is his who constructs it. But to make it lawful to construct, a decree is necessary, and that the construction be innocent. Moreover, as the use of the sea, so that of the shore, is either common or public, by the law of nations. And therefore it is lawful for any one to build on the shore, and to make the shore his by the building; if however, as in the sea, so on the shore, he has obtained permission: and provided besides, the use of the shore will not thereby be rendered worse, nor the public use be impeded. This is the law as to the sea and its shores. It is the same as to public rivers, according to Ulpian, Dig. 39. 2. 24. where he says, 'the use of public rivers is common, as of highways and shores. In these, therefore, any one may build up, or pull down, *publicly*, provided it be done without *inconvenience to any one*.' That you may build, however, Ulpian requires that you build *publicly*, and *without inconvenience to* any one; in like manner as is prescribed as to the sea, and its shore: *publicly*, I say, or *by public authority;* for that is what the word *publicly*, indicates." And § 2. citing Dig. 43. 12. 4. he says, "it is asked whether he who has houses on both banks of the river, may build a bridge, of his own private

pontem facit, usum fluminis publici facit deteriorem." So far Noodt.

authority. He answers, he cannot; and if he does, he is bound by the interdict. The reason of the answer is, that by building a bridge he injures the use of a public river." So far Noodt.

The same is the law as to highways and public places. Dig. 43. 8. 2. 16.

"Si quià à principe simpliciter impetraverit ut in publico loco ædificet, non est credendus sic ædificare ut cum incommodo alicujus id fiat."

"If any one obtains leave, simply, from the prince, to build in a public place, it is not to be understood he is so to build as to incommode another."

We see, then, that the Roman law not only forbade every species of construction or work on the bed, beach or bank of a sea or river, without regular permission from the proper officer, but even annuls the permission after it is given, if, in event, the work proves injurious; not abandoning the lives and properties of its citizens to the ignorance, the facility, or the corruption, of any officer. Indeed, without all this appeal to such learned authorities, does not common sense, the foundation of all authorities, of the laws themselves, and of their construction, declare it impossible that Mr. Livingston, a single individual, should have a lawful right to drown the city of New Orleans, or to injure, or change, of his own authority, the course or current of a river which is to give outlet to the productions of two-thirds of the whole area of the United States?

Such, then, are the laws of Louisiana, declaratory

of the public rights in navigable rivers, their beds and banks. For we must ever bear in mind that the Roman law, from which these extracts are made, so far as it is not controlled by the Customs of Paris, the Ordinances of France, or the Spanish regulations, is the law of Louisiana. Nor does this law deal in precept only, or trust the public rights to the dead letter of law merely: it provides also for enforcement. The Digest. L. 43. tit. 15. de ripâ muniendâ, provides

§ 1. "Ripas fluminum publicorum reficere, munire, utilissimum est,—*dùm ne ob id navigatio deterior fiat:* illa enim sola refectio toleranda est, quæ navigationi non est impedimento."

§ 1. "To repair and strengthen the banks of public rivers, is most useful: provided the navigation be not by that deteriorated; for those repairs alone are to be permitted which do not impede the navigation."

§ 3. "Is autem qui ripam vult munire, de-damno futuro debet vel cavere, vel satisdare, secundum qualitatem personæ. Et hoc interdicto expressum est, ut damni infecti, in annos decem, viri boni arbitratu, vel caveatur, vel satisdetur."

Surety.

§ 3. "But he who would strengthen his bank, should give either an engagement, or security against future injury, according to the quality of the person. And this interdict establishes that the engagement, or security, against future injury, shall be for ten years, by the opinion of a good man."

§ 4. "Dabitur autem satis vicinis; sed et his qui trans flumen possidebunt.

§ 4. "Security shall be given to the neighbors, and also to possessors on the other side of the river."

"Ne quid in loco publico facias, inve eum locum immittas, quâ ex re quid illi damni detur. Dig. 43. 8. 2. Ad ea loca hoc interdictum pertinet, quæ publico usui destinata sunt: ut si quid illic fiat, quod privato noceret, Prætor intercederet interdicto suo. § 5.

"You are to do nothing in any public place, nor to cast any thing into that place, from which any damage may follow. This interdict respects those places, which are destined for public use: and that if anything be there done, which may injure an individual,

Adversus eum qui molem in mare projecit, interdictum utile competit ei, cui forte hæc res nocitura sit: si autem nemo damnum sentit, tuendus est is, qui in litore ædificat vel molem in mare jacit. § 8.—Damnum autem pati videtur, qui commodum amittit, quod ex publico consequebatur, qualequale sit. § 11.—Si tamen nullum opus factum fuerit, officio judicis continetur, ut caveatur non fieri." § 18.

the Prætor may interpose by his interdict.—Against him who projects a mole into the sea, the *interdictum utile* lies for him to whom this may possibly do injury, but if nobody sustains damage, he is to be protected who builds on the sea shore, or projects a mole into the sea.—And he seems to suffer injury who loses any convenience, which he derived from the public, whatsoever it may be.—But if no work is done, he should be constrained by the authority of the judge to engage that none shall be done."

"Seeing the use of rivers belongs to the public nobody can make any change in them that may be of prejudice to the said use. Thus one cannot do any thing to make the current of the water slower, or more rapid, should this change be any way prejudicial to the public, or to particular persons. Thus although one may divert the water of a brook, or a river, to water his meadows or other grounds, or for mills and other uses; yet, every one ought to use this liberty so as not to do any prejudice either to the navigation of the river, whose waters he should turn aside, or the navigation of another river which the said water should render navigable by discharging itself into it, or to any other public use, or to neighbors who should have a like want, and an equal right." Dom. Pub. law. 1. 8. 2. 11.

The same law makes it peculiarly incumbent on the government and its officers to watch over the public

property and rights, and to see that they are not injured or intruded on by private individuals. In order to preserve the navigation of rivers, it is proper for the government to prohibit and punish all attempts which might hinder it, or render it inconvenient, whether it be any buildings, fisheries, stakes, floodgates and other hindrances, or by diverting the water from the course of the rivers, or otherwise. And it is likewise forbidden to throw into the rivers any filth, dirt or other things, which might be of prejudice to the navigation, or cause other inconveniences." Dom. Pub. L. 1. 8. 2. 8.

"Quoique la mer et ses bords soient, suivant les principes du droit naturel, des choses publiques et communes à tous, avec faculté à chacun d'en user selon sa destination, neanmoins il ne doit pas étre permis aux uns d'en jouir au préjudice des autres. Ainsi pour prévenir les inconveniens qui seroient résultés de la liberté d'user de la chose commune, il a fallu que cette liberté fut limitée par la puissance publique, ainsi que s'en explique Domat, etc. Nouv. Comment. sur l'orden. de 1681. tit. 7. art. 2. Note.

"Although the sea and its shores, according to the principles of natural law, are things public and common to all, with liberty to every one to use them according to their destination, nevertheless it ought not to be permitted to some to enjoy them to the prejudice of others. Therefore to prevent the inconveniences which would result from the liberty of using the public property, it is necessary that that liberty be limited by the public authority as explained by Domat," etc.

"It is likewise agreeable to the law of nature, that this liberty, which is common to all, being a continual occasion of quarrels, and of many bad consequences, should be regulated in some manner or other; and there could be no regulation more equitable, nor more natural, than leaving it to the sover-

eign to provide against the said inconveniences. For as he is charged with the care of the public peace and tranquillity, as it is to him the care of the order and government of the society belongs, and it is only in his person that the right to the things which may belong in common to the public, of which he is the head, can reside; he, therefore, as head of the commonwealth, ought to have the dispensation and exercise of this right, that he may render it useful to the public. And it is on this foundation that the Ordinances of France have regulated the use of navigation, and of fishing, in the sea and in rivers." Dom. P. L. 1. 8. 2. 1. note. Observe that the work of Domat was published in 1689, and he died in 1696. Dict. hist. par une société. *verbo* Domat. We know then from him the state of the laws of France, at a period a little anterior only to the establishment of the colony of Louisiana, and the transfer of the laws of France to that colony by its charter of 1712.

To the provisions which have been thus made by the Roman and French laws and transferred to Louisiana, no particular additions, by either the French or Spanish government, have been produced on the present occasion. We know the fact, and thence infer the law, that from a very early period, the governors of that province were attentive especially to whatever respected the harbor of New Orleans, which included the grounds now in question. We see them forbidding inclosures, or buildings on them, pulling down those built, publishing

bans against future erections, forbidding earth for buildings and streets to be taken from the shore adjacent to the city, and assigning the beach Ste. Marie for that purpose, protecting all individuals in the equal use of it as a Quai, in which cares and superintendence the Cabildo or City Council, participated; and on the change of government we see that council pass an Ordinance declaratory of the limits of the N. Orleans, and come forward in defence of the public rights, in the first moment of J. Gravier's intrusion, by pulling down his inclosure, and when that intrusion under the enterprise of Mr. Livingston, assumed a more serious aspect, they, as municipal guardians of the interests of the city, made an immediate appeal to the Judiciary, the Executive, and Legislative authorities. In addition, too, to the French laws for the protection of the bed and bank of the river, the territorial legislature, on the 15th of Feb., 1808, passed an Act, reciting that inasmuch as "the common safety of the inhabitants of the shores of the river Mississippi depends not only on the good condition of the levees or embankments, which contain the waters of the said river; but also on the strict observance of the laws concerning the police of rivers and their banks, *which are in force in this territory*, and by which it is forbidden to make on the shores of the rivers, any work tending to alter the course of the waters, or increase their rapidity, or to make their navigation less convenient, or the anchorage less

Levees and Police of Mississippi.

sure, [almost in the words of the Roman law, "ne quid in flumine publico"] they therefore enact that no levee shall be made in front of those which exist at present, but on an inquisition by 12 inhabitants, proprietors of plantations situate on the banks of the river, convoked for that purpose, by the Parish judge; that no such levee, which at the present time of passing this act shall happen to be commenced in front of others already existing, shall be continued or finished without a like authorization; that those who act in contravention shall be fined 100 dols. for every offence in contravention, and pay the expenses of removing the nuisance, and costs of suit; and prohibiting the receiving compensation for the use of the shores under a penalty of 500 dols. A law of wonderful, not to say imprudent and dangerous tenderness to the riparian proprietors, who are thus made the sole judges in cases where their own personal interests may be in direct opposition to the interests, and even the safety of the city, to which it gives no participation or control over the power which may devote it to destruction.

This act is partly declaratory of the existing law, and partly additional. Application to the Prætor was under the Roman law (Dig. 43. 13. 6.) for permission to fortify a bank for the protection of a farm. He might refuse permission if injurious; but if he thought it would not be injurious, the party was to give security to make good all damages which should accrue within ten years; and this security was for

the protection, not only of immediate neighbors, but of those also on the opposite bank "trans flumen possidentibus." The Governor and Cabildo seem to have held this Prætorian power in Louisiana, as well as that of demolishing what was unlawfully erected. This act of the Legislature, without taking the power from the Governor and City Council, gave a concurrent power to the parish judge, and a jury of 12 riparians: and without dispensing with the security required by the existing law, adds penalties against contraveners.

And surely it is the territorial legislature, which not only has the power, but is under the urgent duty, of providing regulations for the government of this river and its inhabitants, regulations adapted to their present political regulations, as well as to the peculiar character and circumstances of the river, and the adjacent country. Their power is amply given in the act of Congress of 1804, c. 38. § 11. "The laws in force in the said territory at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force, until altered, modified, or repealed by the legislature. § 4. The Governor, by and with advice and consent of the said legislative council, or a majority of them, shall have power to alter, modify, and repeal the laws which may be in force at the commencement of this act. Their legislative powers shall extend to all the rightful subjects of legislation;" with special exceptions, none of which take away the authority to leg-

islate for the police of the river. And if ever there was a rightful subject of legislation, it is that of restraining greedy individuals from destroying the country by inundation.

Suspension of Liv.'s works, by whom?

And here it must be noted that Mr. Livingston's works were arrested by the Marshal and posse comitatus, by an order from the Secretary of State on the 25th of January, 1808, and on the 15th of the ensuing month, the legislature took the business into the hands of their own government, by passing this act. From this moment it was in Mr. Livingston's power to resume his works, by obtaining permission from the legal authority. The suspension of his works, therefore, by the general government was only during these 21 days.

Their nature.

That Mr. Livingston's works were clearly within the interdict of the Roman, the French, and the Spanish laws, which forbid the extending a mole into the water, constructing in it mills, floodgates, canals, towers, houses, cabins, fisheries, stakes or other things which may obstruct or embarrass the use, will result from a brief recapitulation of their character and effects, drawn from the statement before given. For it is not to establish a mill, which, though an intrusion would be but a partial one: it is not to erect a temporary cabin or fisherman's hut, which would be a minor obstacle: but it is to take from the city and the nation what is their port in high water, and at low tide their Quai; to leave them not a spot where the upper craft can land

or lie in safety; to turn the current of the river on the lower suburbs and plantations; to embank the whole of this extensive beach; to take off a fourth from the breadth of the river, and add equivalently to the rise of its waters; to demolish thus the whole levee, and sweep away the town and country in undistinguished ruin. And this not as a matter of theory alone, but of experience: the fact being known that since the embankment of the river on both sides through a space of three or four hundred miles the floods are two or three feet higher than before that embankment. In fine, should they have time to save themselves from inundation by doubling the height and breadth of their levee, it is that they may fall victims to the pestilential diseases which, under their fervid sun, will be generated by the putrefying mass with which he is to raise up the foundation between the old and new embankments. But has he entitled himself to attain these humane achievements by fulfilling the preliminary requisites of the law? Has he obtained the Prætorian, or Pro-Prætorian license, that of the governor and city council, to erect this embankment? Has he given security for all the damages which shall be occasioned by his works for ten years? Has he even carried his case before a jury of 12 brother riparians? Or does he fear to trust it even to those having similar interests with himself? lest the virtuous feeling of compunction for the fate of their fellow citizens should scout his proposition with honest indigna

tion? And yet, until this permission, every spadeful of earth he moved was an outrage on the law, and on the public peace and safety, which called for immediate suppression. What was to be done with such an aggressor? Shall we answer in the words of the Imperial edict, on a similar occasion, that of breaking the banks of the Nile? Cod. 9. 38. "Flammis eo loco consumatur, in quo vetustatis reverentiam, et propemodum ipsius imperii appetierit securitatem; consciis et consortibus ejus deportatione constringendis; sic ut nunquam supplicandi, eis, vel recipiendi civitatem vel dignitatem, vel substantiam, licentia tribuatur." "Let him be consumed by the flames in that spot in which he violated the reverence of antiquity, and the safety of the empire, let his accessories and accomplices be cut off by deportation from the possibility of supplicating forgiveness, or of being restored to country, dignity and possessions." Our horror is not the less because our laws are more lenient.

Remedies.

Such, then, were the facts, and such the state of the law, on which we were called, and repeatedly and urgently called to decide: not indeed in all the fulness in which they have since appeared, but sufficiently manifested to show that an atrocious enterprise was in a course of execution, which if not promptly arrested, would end in a desolation for which we could never answer. The question before us was, What is to be done? What remedy can we apply, authorized by the laws, and prompt enough to arrest the mischief?

1. Were the case within the jurisdiction of our own laws, its character and remedy would be obvious enough. A navigable river is a highway, along which all are free to pass. And as the obstructing a highway on the land, by ditches or hedges, or logs across it, or erecting a gate across it, is a common nuisance, so to weaken injuriously the current of a river, by drawing off a part of its water, to obstruct it by moles, dykes, weirs, piles, or otherwise, is a common nuisance; and all authorities agree, that every one is allowed to remove or destroy a common nuisance. Hawkins, P. C. 1. 75. 12. The Marshal and posse, instead of pleading the order from the Secretary of State, have a right to say "we did this as citizens, and the law is our authority:" and it would really be singular if, what every man may, or may not do, at his pleasure, the magistrate who is sworn to see the law executed, and is charged with the care of the public property and rights, is alone prohibited from doing; or if his order should vitiate an act which without it would have been lawful, or which he might have executed in person. It would be equally singular, and equally absurd, that the law should punish the magistrate for hindering Mr. Livingston from doing what itself had forbidden and would punish, and reward him with damages for having been restrained from what they had forbidden him to do. The law makes it a duty in a bystander to lay hands on a man who is beating another in the street, and

Abatement of Nuisance.

to take him off. And yet it is proposed that the same law shall punish him for taking off one who was engaged, not in beating a single individual, but in drowning a whole city and country. This is not our law; it is not the law of reason; and I am persuaded it is no part of a system emphatically called *ratio scripta*. If it is, let the law be produced. Until it is, we hold every man authorized to stay a wrong-doer, in the commission of a wrong, in which himself and all others are interested.

Forcible entry.

2. By nature's law, every man has a right to seize, and retake by force, his own property, taken from him by another, by force or fraud. Nor is this natural right among the first which is taken into the hands of regular government, after it is instituted. It was long retained by our ancestors. It was a part of their Common law, laid down in their books, recognized by all the authorities, and regulated as to certain circumstances of practice. Lambard, in his Eirenarcha. B. 2. c. 4. says, "it seemeth that (before the troublesome raigne of king Richard the second,) the Common law permitted any person (which had good right or title to enter into any land,) to win the possession by force, if otherwise he could not have obtained it. For a man may see, (in Britton fo. 115.) that a certain respite of time was given to the disseisee, (according to his distance and absence,) in which it was lawful for him to gather force, arms, and his friends and to throw the disseisor out of his wrongful posses-

sion." Hawkins in his Pleas of the crown, and all the Abridgements and Digests of the law say the same: but, not to take it at second hand, we will recur to the earliest authorities, written while it was yet the law of the land. Fleta in the time of E. 1. writes,

"Si facta fuerit diseissina, primum et principale competit remedium quod ille qui ita disseisitus est, per se, si possit, vel sumptis viribus, vel resumptis (dum tamen sine aliquo intervallo, flagrante disseisinâ et maleficio) rejiciat spoliantem.

Quem si nullo modo expellere possit, ad superioris auxilium erit recurrendum. Si autem verus possessor absens fuerit, tunc locorum distantia distinguere oportebit, secundem quod fuerit propè vel longè, quo tempore viz. scire potuit disseisinam esse factam, ut sic, allocatis ei rationabilibus dilationibus, primo die cum venerit, statim suum dejiciat disseisitorem; qui, si primo die, non possit, in crastino, vel die tertio vel ulterius, dum tamen sine fictitiâ, hoc facere poterit, vires sibi resumendo, arma colligendo, auxiliumque amicorum convocando." Fleta L. 4. c. 2.

And Bracton L. 4. c. 6. in almost totidem verbis; and Britton "le premer remedie pour disseisine est al disseisi de recollier amys et force et sauns delay faire (après ceo que il le

"If a disseisin has been committed, a first and principal remedy lies, that he who has been so disseised, by himself, if he can, or taking force, and retaking, (provided it be without any interval, the disseisin and wrong being yet flagrant,) may eject the spoliator. Whom, if he can by no means expel, resort is to be had to the assistance of a superior. But if the rightful possessor were absent, then, regard must be had to the distance of the places, according as it was near or far off, at what time, for instance, he could know that a disseisin had been committed, that so, reasonable delays being allowed him, on the first day when he comes, he may immediately ejec the disseisor, which if he cannot do on the first day, he may on the morrow, or third day, or later, provided however he do it without false pretences, by taking to himself force, collecting arms, and calling in the aid of his friends." And Bracton L. 4. c. 6. almost in the same words; and Britton says, "The first remedy for disseisin is for the disseisee to collect his friends and force, and without delay, (after he may

purra saver) engetter les disseisours." Britton c. 44.

know of it,) to eject the disseisors."

This right, as to real property, was first restrained in England by a statute of the 5. R. 2. c. 7. which forbade entry into lands with strong hand; and another of the same reign, 15. R. 2. c. 2. authorized immediate restitution to the wrongdoer, put out by forcible entry. And even at this day, in an *action* of trespass, for an entry, *vi et armis*, if the defendant makes good title, he is maintained in his possession and the plaintiff recovers no damages for the force. Lambard 2. 4. Hawk. P. C. 1. 64. 3. And in like manner, the natural right of recaption by force still exists, as to personal goods, and the validity of their recaption. Hawk. 1. 64. 1. Kelway 92. is express. Blackstone, indeed, 3. 1. 2. limits the right of recaption to a peaceable one, not amounting to a breach of the peace; meaning, I presume, that the recaptor by force may be punished for the breach of the peace. So may the defendant in trespass for an entry *vi et armis*. Yet in an *action* of detinue for the personal thing retaken by force, the first wrongdoer cannot recover it, nor damages for the recaption, any more than in the case of trespass for lands. So that to this day the law supports the right of recaption, as between the parties, although it will punish the public offence of a breach of the peace.

Roman Law.

When this natural right was first restrained among the Romans, I am not versed enough in their laws to say. It was not by the laws

of the XII tables, which continued long their only laws. From the expression of the Institute, "*divalibus constitutionibus*," I should infer it was first restrained by some of the Emperors, predecessors of Justinian. L. 4. t. 2. § 2.

"Divalibus constitutionibus prospectum est, ut nemini liceat vi rapere vel rem mobilem, vel se moventem, licet suam eandem rem existimat. Quod non solum in mobilibus rebus, quæ rapi possunt, constitutiones obtinere censuerunt, sed etiam in invasionibus, quæ circa res soli fiunt."

"By the Imperial constitutions it is provided that no one shall take by force a thing either moveable, or moving, although he considers it as his own. Which the constitutions have ordained to take place, not only in movable things, which may be taken, but also in intrusions which are made into lands."

But I believe that no nation has ever yet restrained itself in the exercise of this natural right of reseising its own possessions, or bound up its own hands in the manacles and cavils of litigation. It takes possession of its own at short hand, and gives to the private claimant a specified mode of preferring his claim. There are cases, of particular circumstance, where the sovereign, as by the English law, must institute a previous inquest: but in general cases as the present, he enters at once on what belongs to his nation. This is the law of England. "Whenever the king's [i. e. the nation's] title appears of record, or a possession in law be called upon him by descent, escheat, etc., he may enter without an office found: for if his title appear any way of record, it is as good as if it were found by office: and if any one enter on him, even before his entry made, he is an intruder; he cannot

gain any freehold in the land, nor does he put the king to an assize or ejectment, or take away his right of entry: for he cannot be disseised but by record. Stamford. Prærogativa regis. 56. 57. Com. Dig. Prærog. D. 71. the substance of the authorities cited.

What are the prescriptions of the Roman law in this case, I do not know; nor are they material but inasmuch as they may be the law of the case in Louisiana. A Spanish law before cited, p. 55, forbidding erections on the beds, or on the banks of rivers, says expressly, "si alguno lo ficiese debe ser deribado." "If any one does it, it is to be destroyed." And the constant practice of the Governors of demolishing such erections was the best evidence of the law we could obtain. Not skilled in their laws ourselves, we had certainly a right to consider the Governor and Cabildo as competent expositors of them, and as acting under their justification and prescription. We might reasonably think ourselves safe in their opinions of their own law. In fact, if the immediate entry was permitted by the English law, and our own, we thought we might, *à fortiori*, conclude it permitted by those of the province. We had before us, too, the example of many of the states, and of the general government itself, which have never hesitated to remove by force the squatters and intruders on the public lands.[1] Indeed if the nation were

Squatters.

[1] Squatters or Intruders on the public or Indian lands were repeatedly removed by the State of Virginia, before its cession to Congress, by the the old Congress (see Journ. 15 June 1785,) by the present Government at various times and, as is believed, by other individual states on the ground of natural right only. *MS. Note.*

put to action against every Squatter, for the recovery their lands, we should only have lawsuits, not lands for sale. While troops are on parade, should intruders take possession of their barracks, and shut the doors, are they to remain in the open air till an action, or even a writ of forcible entry replace them in their quarters? if in the interval of a daily adjournment, intruders take possession of the capitol, may not Congress take their seats again till an inquisition and posse shall reintroduce them? let him who can, draw a line between these cases. The correct doctrine is that so long as the nation holds lands in its own possession, so long they are under the jurisdiction of no court, but by special provision. The United States cannot be sued. The nation, by its immediate representatives, administers justice itself to all who have claims upon the public property. Hence the numerous petitions which occupy so much of every session of Congress in cases which have not been confided to the courts. But when once they have granted the lands to individuals, then the jurisdiction of the courts over them commences. They fall then into the common mass of matter justiciable before the courts. If the public has granted lands to B. which were the legal property of A., A. may bring his action against B. and the courts are competent to do him justice. The moment B. attempts to take possession of A.'s lands, the writ of forcible entry, the action of trespass or ejectment, and the Chancery process,

Jurisdiction in whom.

When it results to Courts.

furnish him a choice of remedies. The holders of property therefore are safe against individuals by the law; and they are safe against the Nation by its own justice: and all the alarm which some have endeavored to excite on this subject has been merely *ad captandum populum*. As if the people would not be safe in their own hands, or in those of their representatives; or safer in the hands of irresponsible judges, than of persons elected by themselves annually or biennially. The truth is, no injury can be done to any man by another acting either in his own or a public character, which may not be redressed by application to the proper organ to which that portion of the administration of justice has been assigned.

3. Our third and conclusive remedy was that prescribed by the act of Congress of 1807. c. 91. to prevent settlements on lands ceded to the U. S. The Executive had been indulgent, perhaps remiss, in not removing Squatters from the public lands, under the general principles of law before explained and habitually acted on. This act therefore was a recent call on them to a more vigilant performance of their duty, in the special district of country lately ceded to them by France, with some modifications of its exercise on previous settlers. The act has two distinct classes of Intruders in view. 1. Those who, *before the passing of the act*, had possessed themselves of the lands, and were actually resident on them at the passing it: and 2. Those who should take possession *after the passage of the act*. 1.

Act of Congress.

With respect to the class of Intruders *before* the passage of the act, the 2d section provides that, on renouncing all claim, they may obtain from the register or recorder, permission to remain on the lands, extending their occupation to 320 acres, § 8. which permissions are to be recorded: but, § 4. those not obtaining permission are, on three months' notice, to be removed by the marshal. But Mr. Livingston was much too wise to qualify himself for the benefit of these sections, by an actual residence on the batture. *His* part of the act therefore is the first section which enacts that "if any person shall take possession of any lands ceded to the U. S. by treaty, he shall forfeit all right to them if any he hath; and it shall be lawful for the President of the U. S. to direct the Marshal, or the military, to remove him from the lands. Providing however that this removal shall not affect his claim until the Commissioners shall have made their reports, and Congress decided thereon." The tribunal to which the legislature had specially delegated a power to take cognizance of the claims on the public lands in Orleans, and to inform them what lands were clear of claim, and free to be granted to our citizens, was a board of Commissioners: and the plain words and scope of the law were, to keep all claims and prior possessions *in statu quo*, until they could be investigated by these Commissioners, reported, and decided on by Congress. And this act indulgently provides that the right of a person removed by the Executive for irregularly taking

possession of lands which he thought his own, should not be affected by this removal, but that he might still lay his claim before the Commissioners, and Congress would decide on it. Mr. Livingston's claim was clearly within the purview of the law. It was of lands "ceded to the U. S. by treaty," and he had "taken possession of them *after the passage* of the act." For the decree of the court was not till May 23, '07, and his possession was subsequent to that. If he should say, as his counsel seems to intimate, Opinions LXVII, that this was a *remitter* to him of the ancient possession of Bertrand Gravier, I answer that it was no remitter against any one, because the case was *coràm non judice*, as will be shown, and still less against the U. S. who were no parties to the suit: and if it had been a remitter, then I should have observed that the order has been executed on a person not comprehended in it; for it was expressly restrained to possessions taken after the 3d of March '07, in that case the Marshal must justify himself, not under the order, but his personal right to remove a nuisance. But investigations, reports, and decisions of Congress were dangerous. It was safer to be his own judge, to seize boldly, and put the public on the defensive. He seizes the ground he claims, and refers his title to no competent tribunal. When ousted, according to the injunctions of the statute, and repossession taken on behalf of the U. S. he passes by the preparatory tribunal of the Commissioners, and endeavors to obtain a decision on his case

Remitter.

by Congress, in the first instance: in this too he has been disappointed. Congress have maintained the ground taken under the statute; and Mr. Livingston now demands the value of the lands from the magistrate on whom devolved the duty of executing the statute.

Taking now a brief review of the whole ground we have gone over, we may judge of the correctness of the decision of the Cabinet, as to their duty in this case. I trust it will appear to every candid and unbiassed mind, that they were not mistaken in believing

Recapitulation.

That the Customs of Paris, the Ordinances of the French government, the Roman law as a supplement to both, with the special acts of the Spanish and American legislatures, composed that system of law which was to govern their proceedings.

That, were this a case of Alluvion, the French law gives it to the Sovereign in all cases; and the Roman law to the private holder of *rural* possessions only.

That Bertrand Gravier had converted his plantations into a fauxbourg, and appendage of the city of New Orleans; with the *previous* sanction of the Spanish government, according to his own declarations, by which those claiming under him are as much bound, as if made by themselves; and certainly by its *subsequent* formal recognitions, and confirmations, which acted retrospectively; and the character of the ground being thus changed from a Rural to an

Urban possession, the Roman law of Alluvion does not act on it.

That even had his ground retained its *rural* character, and admitting that the grant to him "*face au fleuve*" conveyed the lands to the water's edge, his sales, "*face au fleuve*" conveyed to his purchasers the same right which the same terms had brought to him, and they, and not the plaintiff, now hold the rights of B. Gravier, whatever they were.

That John Gravier elected to take the estate as a purchaser by inventory and appraisement, the Batture, if Bertrand's was not in that inventory, nor consequently purchased by John Gravier.

That the deed from him to De la Bigarre was fraudulent and void, as well by the *lex loci*, as on the face of the transaction.

That the decision of the court in his favor could in no wise concern the United States, who were neither parties to the suit, nor amenable to the jurisdiction.

And, consequently, that under all these views of the French law: the Roman law, the conveyances "*face au fleuve*," the purchase by inventory, and the fraudulency of the deed to Bigarre, the plaintiff's claim is totally unfounded. And, if void by any one of them, it is as good as if void by every one.

But it has appeared further that the batture had not a single characteristic of alluvion:

That the *bank* of a river is only what is above the high water mark:

That all below that mark is *bed*, or alveus, of which the batture is that portion between the high and low water mark, which we call the *beach*:

That it serves, as other beaches do, for a port while covered, and Quai uncovered: and it is the only port in the vicinity of the city which river craft can use.

That, as a part of the *bed* of the river, it is purely public property.

That it is not lawful for an individual to erect, on either the bed or bank of a river, any works which may affect the convenience of navigation, of the harbor or Quai, or endanger adjacent proprietors on either side of the river.

That though it is permissible to guard our own grounds against the current of the river, yet, so only, as to be consistent with the convenience and safety of others.

That of this the legal magistrates are to be judges in the first instance; but even *their errors are* to be guarded against by an indemnification for all damages which shall actually accrue to individuals within a given time.

That Mr. Livingston's works, in a single flood, had given alarming extent, both in breadth and height, to the batture: had turned the efforts of the river against the lower suburbs, and habitations, not before exposed to them; that they would deprive the public of what was their Quai in low water, and harbor in times of flood: that, by narrowing the

river one-fourth, it must raise it in an equivalent proportion, to discharge its waters: that this would sweep away the levee, city, and country, or quadruple the bulk of the levee, and the increased danger to which that would expose it: and, even then, would infect the city, by the putridity of the new congestions, with pestilential diseases, to which its climate is already too much predisposed.

That Mr. Livingston was doing all this, of his own authority, without asking permission from the public magistrate, or giving any security for the indemnity of injured citizens:

That under pressure of these dangers, the Executive of the nation was called on to do his duty, and to extend the protection of the law to those against whose safety these outrages were directed:

And that the authorities given by the laws, 1. For preventing obstructions in the beds, or banks of rivers, 2. For re-seising public property intruded on; and 3. For removing intruders from it by force, were adequate to the object, if promptly interposed.

Orders of the Government.

On duly weighing the information before us, which though not as ample as has since been received, was abundantly sufficient to satisfy us of the facts, and has been confirmed by all subsequent testimony, we were all unanimously of opinion, that we were authorized, and in duty bound, without delay, to arrest the aggressions of Mr. Livingston on the public rights,

and on the peace and safety of the city of New Orleans, and that orders should be immediately dispatched for that purpose, restrained to intruders since the passage of the act of March 3. The Secretary of State accordingly wrote the letter of Nov. 30, to the Governor, covering instructions for the Marshal to remove immediately, by the civil power, any persons from the batture Ste. Marie, who had taken possession since the 3d of March, and authorising the Governor, if necessary, to use military force; for which purpose a letter of the same date was written by the Secretary of War to the commanding officer at New Orleans. This force however was not called on. The instructions to the Marshal were delivered to him about 9 o'clock in the morning of the 25th of Jan., 1808. [Dorgenoy's letter to the Governor] he immediately went to the beach, and ordered off Mr. Livingston's laborers. They obeyed, but soon after returned. On being ordered off a second time, the principal person told him that he was commanded by Mr. Livingston not to give up the batture until an adequate armed force should compel him. And in the meantime, Mr. Livingston had procured from a single judge of the superior court of the territory, an order, purporting to be an injunction, forbidding the marshal to disturb Edward Livingston in his possession of the batture, under pain of a contempt of court. The marshal, placed between contradictory orders, of the national government as to the

Proceedings under them.

property of the nation, and a territorial judge without jurisdiction over it, obeyed the former; collected a posse comitatus, ordered off the laborers again, who peaceably retired; and no further attempts were afterwards made to recommence the work.

Chancery Jurisdiction.

I have said that the marshal received an order, purporting to be an injunction. An authoritative injunction it could not be; because that is a Chancery process, and no Chancery jurisdiction has been given by any law to the superior court of that territory. Its judges were first established by the act of Congress of 1804. c. 38. with commissions for four years, and certain specified powers, which it is unnecessary to state, because an act of March 2, of the next year, c. 83. established, in that territory, "a government in all respects similar to that exercised in the Mississippi territory," which government had been established by an act of 1798. c. 5. "in all respects similar to that in the territory North-west of the Ohio." So that we are to find all their powers in the Ordinance of 1787, for the North-Western territory, in which are the following words. "There shall be appointed a court to consist of three judges, any two of whom to form a court, who shall have *a common law jurisdiction*, and their commissions shall continue in force during good behavior." And again "The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury." New commissions were accord-

ingly given to the judges appointed under the first law, and, instead of their former powers, they were now to have *a common law jurisdiction*. By these words certainly no *chancery jurisdiction* was given them. Every one knows that common law jurisdiction is a technical term, used in contradistinction to a chancery jurisdiction, and exclusive of that, the common law ending where the chancery begins. The one authority is here given, and therefore they have it; the other is not given, and therefore they have it not. For they have no authority but that which is given by the legislature. If they have not chancery powers, then, by this law, there remains but one other source from which they can legally derive it. The act of 1804 before mentioned § 11, says, "the laws in force in the said territory, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the legislature." We have seen that the laws in force were the French and Roman, with perhaps some occassional Spanish regulations. It being perfectly understood that these were not meant to be included in the change, it follows that the term *common law*, when applied to this territory, must be equivalent to the common law of that land, or the law of the land. Was then the establishment of the French and Roman laws an establishment of the chancery system of law? Will it be said that the Roman and Chancery laws, for instance, are the same?

That the *civil law*, and the *chancery* are synonymous terms, both meaning the same system? Nobody will say that. The system of chancery law is partly concurrent, but chiefly supplementary and corrective of that of the common law. It sometimes corrects the harshness of the letter, where that includes what was not intended. It gives remedies in certain cases where that gave none, and more perfect remedies in other cases. It is adapted to the common law as one part of an indenture is to its counterpart. It is formed to tally with that in all its prominences and recesses, its asperities and defects, and with no other body of law on earth. It consists of a set of rules and maxims, modified by the English Chancellors through a course of several centuries, derived from no foreign model, but contrived to reduce specifically the principles of common law to those of justice. The Roman law has something similar in its *Jus Prætorium*, where the discretion of the Prætor was permitted to mollify and correct the harshness of the *leges scriptæ*. But to apply the *Jus Prætorium* to our common law, or our chancery to the *leges scriptæ* of the Romans, would be to apply to one thing the tally of another, or to mismatch the parts of different machines, so as to render them inconsistent and impracticable. Our chancery system is as different from the civil, as from the common law. All systems of law indeed profess to be founded on the principles of justice. But the superstructures erected are totally distinct. The chancery then

being a system clearly distinct from that of the French and Roman laws, it cannot be said that the legislature of the U. S. by establishing the French and Roman laws of Orleans, established there the chancery system. It will not be pretended that the process of *subpœna*, used in the present case, and the sole and peculiar original process of chancery, is a civil law process. It is known to have been the invention of Waltham, Chancellor of Richard II. founded on the statute of Westminster the 2d c. 24. giving writs *in consimili casu.*

Might it be urged (for I am really at a loss to conjecture on what grounds this power has been assumed) that possessing under the act of '04, the powers of the chancery combined with those of the French and Roman laws, the subsequent act which gave them a common law jurisdiction, did not take away the others? *In totidem verbis* it did not, but in effect it did completely, by changing the government into one in all respects similar to that in the Mississippi territory, where there was no chancery jurisdiction. Moreover, there is not a word in the act of '04, which gives them chancery jurisdiction. It says, "they shall have jurisdiction in all criminal cases, and original and appellate jurisdiction in all civil cases of the value of 100 dollars, and the laws in force at the commencement of this act shall continue in force." Here then is their jurisdiction, and the particular system of law according to which they are to exercise it, and the chancery made no part of

that system. This argument, too, would suppose that to the French, the Roman, the Spanish, and the Chancery laws, the common law was also added. This would be an extraordinary spectacle, indeed, and the imputation of such an intention would be an insult to the legislature. Their laws have always some rational object in view; and are so to be construed, as to produce order and justice. But this construction, establishing so many systems, and these inconsistent and contradictory, would produce anarchy and chaos, and a dissolution of all law, of all rights of person or property. And what would be the consequences of carrying on a system of chancery concurrent with the French and Roman laws? A case is brought, for instance, into their court of chancery. I ask the honorable judges, is the law of chancery in this case, the same as the civil law? If the same, what need of calling in the system of chancery? If different, will you decide against the law established by the legislature? If you carry on two systems, the one of which, in any case, gives a right to A. and the other to B. the suitor who covets his neighbor's property needs only to choose that court, the rules of which will give it to him. Thus all rights will be set afloat between two opposite systems. The wisdom of the legislature therefore has been as sound in not giving a chancery jurisdiction concurrently with the civil law, as the judges have been ill-advised in usurping it. And have they adverted to the national feelings, when

they have ventured, on their own authority, to abolish the trial by jury pledged by the Ordinance to the inhabitants forever? Whoever wishes to take from his opponent the benefit of this trial, has only to bring his suit in the court of chancery. In this very case, on which the well-being of a great city is suspended, no jury was called in. The judges took upon themselves to decide both fact and law; aware, at the same time, that a jury could not have been found in Orleans, which would not have given a contrary decision. I shall not ascribe either favoritism, or intentional wrong to them: but they ought not to be surprised, if those do whose interests and safety are so much jeopardized by this shuffle of the judges into the place of the jury. It is much regretted that these respectable judges have set such an example of acting against law. It will be more regretted if they do not, by the spontaneous exertion of their own good sense and self-denial, tread back their steps, and perceive that there is more honor and magnanimity in correcting, than persevering in an error. They had before them too the example of their neighbors, of the Mississippi territory, whose government was expressly made the model of theirs. Their judges, like themselves, entitled to common law jurisdiction only, and sensible it needed the mollifying hand of the chancery, did not think the assumption of it within their competence. The territorial legislature therefore invested them with

the jurisdiction. The Judiciary power of the Indian territory modelled by the same Ordinance, was enlarged in like manner by the local legislature. And yet the Orleans territory, least of all needed the aid of a Chancery, as possessing already a corresponding corrective, well adapted to the body of their law, to which the system of Chancery was entirely inapplicable.

Although I had before noted, pages 16, 68, that the decree of this court was a nullity as to the United States, 1. Because they were not a party, nor amenable to their tribunal; 2. Because also it was on a subject over which they had no jurisdiction, I have thought it useful to prove it a nullity; 3dly. Because the result of a process, and a course of pleading and trial belonging to a court whose powers, they do not possess by law, in which course of action the law considers them as mere private persons, is entitled to the obedience of no one. I have done this the rather because it has been seized as a ground of censure on the Executive, as violating the sanctuary of the judicial department, and of inculpating the Marshal, who, placed between two conflicting authorities, had to decide which was legitimate, and decided correctly, as I trust appears, in obeying that which ordered him to remove the plaintiff from an usurped possession.

Act of territorial Legislature.

The territorial legislature, three weeks after, took up the subject, and passed an act prescribing in what manner riparian pro-

prietors should proceed, who wished to make new embankments in advance of those existing. This gave to Mr. Livingston an easy mode of applying for permission to resume his enterprise; and had he obtained a regular permission, certainly it would have been duly respected by the National Executive. On the 1st of March I received from Governor Claiborne a letter of Jan. 29, informing me of the execution of our orders, and covering a vote of thanks from the legislative council and House of Representatives of Orleans, for our interposition: and on the 7th of the same month, I laid the case before Congress by the following message:

Message to Congress.

"To the Senate and House of Representatives of the United States. In the city of New Orleans and adjacent to it are sundry parcels of ground, some of them with buildings and other improvements on them, which it is my duty to present to the attention of the legislature. The title to these grounds appears to have been retained in the former sovereigns of the province of Louisiana, as public fiduciaries, and for the purposes of the province. Some of them were used for the residence of the Governor, for public offices, hospitals, barracks, magazines, fortifications, levees, etc., others for the town house, schools, markets, landings, and other purposes of the city of New Orleans. Some were held by religious corporations, or persons; others seem to have been reserved for future disposition.

To these must be added a parcel called the batture, which requires more particular description. It is understood to have been a shoal, or elevation of the bottom of the river, adjacent to the bank of the suburb St. Mary, produced by the successive depositions of mud during the annual inundations of the river, and covered with water only during those inundations. At all other seasons it has been used by the city, immemorially, to furnish earth for raising their streets, and court yards, for mortar and other necessary purposes, and as a landing or Quai for unlading firewood, lumber, and other articles brought by water. This having lately been claimed by a private individual, the city opposed the claim on a supposed legal title in itself: but it has been adjudged that the legal title was not in the city. It is however alleged that that title, originally in the former sovereigns, was never parted with by them, but was retained by them for the uses of the city and province, and consequently has now passed over to the U. S. Until this question can be decided under legislative authority, measures have been taken according to law, to prevent any change in the state of things, and to keep the grounds clear of intruders. The settlement of this title, the appropriation of the grounds and improvements formerly occupied for provincial purposes to the same, or such other objects as may be better suited to present circumstances; the confirmation of the uses in other parcels to such bodies corporate, or private, as may of right, or on

other reasonable cosiderations, expect them, are matters now submitted to the determination of the legislature. The paper and plans now transmitted, will give them such information on the subjects as I possess, and, being mostly originals, I must request that they may be communicated from the one to the other house, to answer the purposes of both.

TH: JEFFERSON.

March 7, 1808."

This removal of the case before Congress closed the official duties of the Executive, and his interference respecting these grounds: except that the attorney of the United States for the district of Orleans having given written permission to the inhabitants to use the batture as before, this, on the application of Mr. Livingston, was directed to be withdrawn by a letter from the Secretary of State, of Oct. 5, '09. This was correct. It placed the inhabitants exactly on their former footing, without either permission or prohibition on the part of the National government.

Removal of the case before them.

The *possession*, the only charge of the Executive, was now cleared from intrusion, and restored to its former condition: and the question of title committed to the Legislature, the only authority competent to its decision. If they considered the ground taken by the Executive as incorrect, their vote, or their reference of the case to Commissioners, would correct it. and as to damages, if any could justly be

claimed, they were due, as in other cases, not from the judge who decides, but the party which, without right, receives the intermediate profits. If, on the other hand, Congress should deem the public right too palpable, (as to me it clearly appears,) and the claim of the plaintiff too frivolous, to occupy their time, they would of course pass it by. And certainly they might as properly be urged to waste their time in questioning whether the beds of the Potomac, the Delaware, or the Hudson, were public or private property, as that of the Mississippi. Their refusing to act on this claim therefore for five successive sessions, though constantly solicited, and their holding so long the ground taken by the Executive, is an expression of their sense that the measure has been correct.

Responsibility of a public functionary.

I have gone with some detail into the question of the plaintiff's right, because, however confident of indulgence, in the case of an honest error, I believed it would be more satisfactory to show, that in the exercise of the discretionary power entrusted to me by Congress, a sound discretion had been used, no act of oppression had been exercised, no error committed, and consequently no wrong done to the plaintiff. I have no pretensions to exemption from error. In a long course of public duties, I must have committed many. And I have reason to be thankful that, passing over these, an act of duty has been selected as a subject of complaint, which the delusions of self in-

terest alone could have classed among them, and in which, were there error, it had been hallowed by the benedictions of an entire province, an interesting member of our national family, threatened with destruction by the bold enterprise of one individual. If this has been defeated, and they rescued, good will have been done, and with good intentions. Our constitution has wisely distributed the administration of the government into three distinct, and independent departments. To each of these it belongs to administer law within its separate jurisdiction. The judiciary in cases of *meum* and *tuum*, and of public crimes; the Executive, as to laws executive in their nature; the legislature in various cases which belong to itself, and in the important function of amending and adding to the system. Perfection in wisdom, as well as in integrity, is neither required, nor expected in these agents. It belongs not to man. Were the judge who, deluded by sophistry, takes the life of an innocent man, to repay it with his own; were he to replace, with his own fortune, that which his judgment has taken from another, under the beguilement of false deductions; were the Executive, in the vast mass of concerns of first magnitude, which he must direct, to place his whole fortune on the hazard of every opinion; were the members of the legislature to make good from their private substance every law productive of public or private injury; in short were every man engaged in rendering service to the public, bound

in his body and goods to indemnification for all his errors, we must commit our public affairs to the paupers of the nation, to the sweepings of hospitals and poor-houses, who, having nothing to lose, would have nothing to risk. The wise know their weakness too well to assume infallibility; and he who knows most, knows best how little he knows. The vine and the fig-tree must withdraw, and the briar and bramble assume their places. But this is not the spirit of our law. It expects not impossibilities. It has consecrated the principle that its servants are not answerable for honest error of judgment. 1. Ro. Abr. 92. 2 Jones 13. 1 Salk. 397. He who has done his duty honestly, and according to his best skill and judgment, stands acquitted before God and man. If indeed a judge goes against law so grossly, so palpably as no imputable degree of folly can account for, and nothing but corruption, malice or wilful wrong can explain, and especially if circumstances prove such motives, he may be punished for the corruption, the malice, the wilful wrong; but not for the error: nor is he liable to action by the party grieved And our form of government constituting its respective functionaries judges of the law which is to guide their decisions, places all within the same reason, under the safeguard of the same rule That in deciding and acting under the law in the present case, the plaintiff, who may think there was error does not himself believe there was corruption or malice, I am confident. What? was it my

malice or corruption which prompted the Governors and Cabildoes to keep these grounds clear of intrusion ? Did my malice and corruption excite the people to rise, and stay the parricide hand uplifted to destroy their city, or the grand jury to present this violator of their laws ? Was it my malice and corruption which penned the opinion of the Attorney General, and drew from him a confirmation, after two years of further consideration, and when I was retired from all public office? Was it my malice or corruption which dictated the unanimous advice of the heads of departments, when officially called on for consultation and advice? Was it my malice and corruption which procured the immediate thanks of the two houses of legislature of the territory of Orleans, and a renewal of the same thanks for the same interference, in their late vote of February last ? Has it been my malice and corruption which has induced the national legislature, through five successive sessions, to be deaf to the doleful Jeremiads of the plaintiff on his removal *from his estate* at New Orleans ? Have all these opinions then been honest, and mine alone malicious and corrupt ? Or has there been a general combination of all the public functionaries Spanish, French. and American, to oppress Mr. Livingston ? No. They have done their duties, and his Declaration is a libel on all these functionaries. His counsel, indeed, has discovered [Opinions LXXIV] that we should have had legal inquests taken, writs of en-

quiry formed, prosecutions for penalties, with all the *et cæteras* of the law. That is that we should be playing pushpin with judges and lawyers, while Livingston was working double tides to drown the city. If a functionary of the highest trust, acting under every sanction which the Constitution has provided for his aid and guide, and with the approbation, expressed or implied, of its highest councils, still acts on his own peril, the honors and offices of his country would be but snares to ruin him. It is not for me to enquire into the motives of the plaintiff in this action. I know that his understanding is of an order much too high to let him believe that he is to recover the value of the batture from me. To what indirect object he may squint with one eye, while the other looks at me, I do not pretend to say. But I do say, that if human reason is not mere illusion, and law a labyrinth without a clue, no error has been committed: and recurring to the tenor of a long life of public service, against the charge of malice and corruption I stand conscious and erect. TH: JEFFERSON

MONTICELLO, July 31, 1810.

For Mr. Livingston's Answer, see Hall's American Law Journal, Vol. 5, p. 113, of the Baltimore edition of 1814.

BIOGRAPHICAL SKETCHES

OF

DISTINGUISHED MEN

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PEYTON RANDOLPH.

Peyton Randolph was the eldest son of Sir John Randolph, of Virginia, a barrister at law, and an eminent practitioner at the bar of the General Court. Peyton was educated at the College of William and Mary in Williamsburg, and thence went to England, and studied law at the Temple. At his return he intermarried with Elizabeth Harrison, sister of the afterwards Governor Harrison, entered into practice in the General Court, was afterwards appointed the king's Attorney General for the colony, and became a representative in the House of Burgesses (then so called) for the city of Williamsburg.

Governor Dinwiddie having, about this period, introduced the exaction of a new fee on his signature of grants for lands, without the sanction of any law, the House of Burgesses remonstrated against it, and sent Peyton Randolph to England, as their agent to oppose it before the king and council. The interest of the governor, as usual, prevailed against that of

the colony, and his new exaction was confirmed by the king.

After Braddock's defeat on the Monongahela, in 1755, the incursions of the Indians on our frontiers spread panic and dismay through the whole country, insomuch that it was scarcely possible to procure men, either as regulars or militia, to go against them. To counteract this terror and to set good example, a number of the wealthiest individuals of the colony, and the highest standing in it, in public as well as in their private relations, associated under obligations to furnish each of them two able-bodied men, at their own expense, to form themselves into a regiment under the denomination of the Virginia Blues, to join the colonial force on the frontier, and place themselves under its commander, George Washington, then a colonel. They appointed William Byrd, a member of the council, colonel of the regiment, and Peyton Randolph, I think, had also some command. But the original associators had more the will than the power of becoming effective soldiers. Born and bred in the lap of wealth, all the habits of their lives were of ease, indolence and indulgence. Such men were little fitted to sleep under tents, and often without them, to be exposed to all the intemperances of the seasons, to swim rivers, range the woods, climb mountains, wade morasses, to skulk behind trees, and contend as sharpshooters with the savages of the wilderness, who in all the scenes and exercises would be in their natural element. Accordingly,

the commander was more embarrassed with their care, than reinforced by their service. They had the good fortune to see no enemy, and to return at the end of the campaign rewarded by the favor of the public for this proof of their generous patriotism and good will.

When afterwards, in 1764, on the proposal of the Stamp Act, the House of Burgesses determined to send an address against it to the king, and memorials to the Houses of Lord and Commons, Peyton Randolph, George Wythe, and (I think) Robert C. Nicholas, were appointed to draw these papers. That to the king was by Peyton Randolph, and the memorial to the Commons was by George Wythe. It was on the ground of these papers that those gentlemen opposed the famous resolutions of Mr. Henry in 1765, to wit, that the principles of these resolutions had been asserted and maintained in the address and memorials of the year before, to which an answer was yet to be expected.

On the death of the speaker, Robinson, in 1766, Peyton Randolph was elected speaker. He resigned his office of Attorney General, in which he was succeeded by his brother Randolph, father of the late Edmund Randolph, and retired from the bar. He now devoted himself solely to his duties as a legislator, and although sound in his principles, and going steadily with us in oppostion to the British usurpations, he with the other older members, yielded the lead to the younger, only tempering their ardor, and

so far moderating their pace as to prevent their going too far in advance of the public sentiment.

On the establishment of a committee by the legislature, to correspond with the other colonies, he was named their chairman, and their first proposition to the other colonies was to appoint similar committees who might consider the expediency of calling a general Congress of deputies in order to procure a harmony of procedure among the whole. This produced the call of the first Congress, to which he was chosen a delegate, by the House of Burgesses, and of which he was appointed, by that Congress, its president.

On the receipt of what was called Lord North's conciliatory proposition, in 1775, Lord Dunmore called the General Assembly and laid it before them. Peyton Randolph quitted the chair of Congress, in which he was succeeded by Mr. Hancock, and repaired to that of the House which had deputed him. Anxious about the tone and spirit of the answer which should be given (because being the first it might have effect on those of the other colonies), and supposing that a younger pen would be more likely to come up to the feelings of the body he had left, he requested me to draw the answer, and steadily supported and carried it through the House, with a few softenings only from the more timid members.

After the adjournment of the House of Burgesses he returned to Congress, and died there of an apolexy, on the 22d of October following, aged, as I should conjecture, about fifty years.

He was indeed a most excellent man; and none was ever more beloved and respected by his friends. Somewhat cold and coy towards strangers, but of the sweetest affability when ripened into acquaintance. Of Attic pleasantry in conversation, always good humored and conciliatory. With a sound and logical head, he was well read in the law; and his opinions when consulted, were highly regarded, presenting always a learned and sound view of the subject, but generally, too, a listlessness to go into its thorough development; for being heavy and inert in body, he was rather too indolent and careless for business, which occasioned him to get a smaller proportion of it at the bar than his abilities would otherwise have commanded. Indeed, after his appointment as Attorney General, he did not seem to court, nor scarcely to welcome business. In that office he considered himself equally charged with the rights of the colony as with those of the crown; and in criminal prosecutions exaggerating nothing, he aimed at a candid and just state of the transaction, believing it more a duty to save an innocent than to convict a guilty man. Although not eloquent, his matter was so substantial that no man commanded more attention, which, joined with a sense of his great worth, gave him a weight in the House of Burgesses which few ever attained. He was liberal in his expenses, but correct also, so as not to be involved in pecuniary embarrassments; and with a heart always open to the amiable sensibilities of our nature, he did as many

good acts as could have been done with his fortune, without injuriously impairing his means of continuing them. He left no issue, and gave his fortune to his widow and nephew, the late Edmund Randolph.

MERIWETHER LEWIS.[1]

Meriwether Lewis, late Governor of Louisiana, was born on the 18th of August, 1774, near the town of Charlottesville, in the county of Albemarle, in Virginia, of one of the distinguished families of that State. John Lewis, one of his father's uncles, was a member of the King's Council before the revolution; another of them, Fielding Lewis, married a sister of General Washington. His father, William Lewis, was the youngest of five sons of Colonel Robert

[1] TO MR. PAUL ALLEN, PHILADELPHIA.

MONTICELLO, April 13, 1813.

SIR,—In compliance with the request conveyed in your letter of May 25th, I have endeavored to obtain from the relations and friends of the late Governor Lewis, information of such incidents of his life as might be not unacceptable to those who may read the narrative of his western discoveries. The ordinary occurrences of a private life, and those also while acting in a subordinate sphere in the army in a time of peace, are not deemed sufficiently interesting to occupy the public attention; but a general account of his parentage, with such smaller incidents as marked early character, are briefly noted, and to these are added, as being peculiarly within my own knowledge, whatever related to the public mission, of which an account is now to be published. The result of my inquiries and recollections shall now be offered, to be enlarged or abridged as you may think best, or otherwise to be used with the materials you may have collected from other sources.

Lewis of Albemarle, the fourth of whom, Charles, was one of the early patriots who stepped forward in the commencement of the revolution, and commanded one of the regiments first raised in Virginia, and placed on continental establishment. Happily situated at home with a wife and young family, and a fortune placing him at ease, he left all to aid in the liberation of his country from foreign usurpations, then first unmasking their ultimate end and aim. His good sense, integrity, bravery, enterprise and remarkable bodily powers, marked him an officer of great promise; but he unfortunately died early in the revolution. Nicholas Lewis, the second of his father's brothers, commanded a regiment of militia in the successful expedition of 1776, against the Cherokee Indians, who, seduced by the agents of the British government to take up the hatchet against us, had committed great havoc on our southern frontier, by murdering and scalping helpless women and children according to their cruel and cowardly principles of warfare. The chastisement they then received closed the history of their wars, prepared them for receiving the elements of civilization, which, zealously inculcated by the present government of the United States, have rendered them an industrious, peaceable and happy people. This member of the family of Lewises, whose bravery was so usefully proved on this occasion, was endeared to all who knew him by his inflexible probity, courteous disposition, benevolent heart, and engaging modesty and

manners. He was the umpire of all the private differences of his county, selected always by both parties. He was also the guardian of Meriwether Lewis, of whom we are now to speak, and who had lost his father at an early age. He continued some years under the fostering care of a tender mother, of the respectable family of Meriwethers of the same county, and was remarkable even in his infancy for enterprise, boldness and discretion. When only eight years of age, he habitually went out, in the dead of the night, alone with his dogs, into the forest to hunt the raccoon and opossum, which, seeking their food in the night, can then only be taken. In this exercise no season or circumstance could obstruct his purpose, plunging through the winter's snows and frozen streams in pursuit of his object. At thirteen, he was put to the Latin school, and continued at that until eighteen, when he returned to his mother, and entered on the cares of his farm, having, as well as a younger brother, been left by his father with a competency for all the correct and comfortable purposes of temperate life. His talent for observation, which had led him to an accurate knowledge of the plants and animals of his own county, would have distinguished him as a farmer; but at the age of twenty, yielding to the ardor of youth, and a passion for more dazzling pursuits, he engaged as a volunteer in the body of which were called out by General Washington, on occasion of the discontents produced by the excise taxes in the western parts of the United States; and

from that situation he was removed to the regular service as a lieutenant in the line. At twenty-three he was promoted to a captaincy; and always attracting the first attention where punctuality and fidelity were requisite, he was appointed paymaster to his regiment. About this time a circumstance occurred which, leading to the transaction which is the subject of this book, will justify a recurrence to its original idea. While I resided in Paris, John Ledyard of Connecticut arrived there, well known in the United States for energy of body and mind. He had accompanied Captain Cook in his voyage to the Pacific ocean, and distinguished himself on that voyage by his intrepidity. Being of a roaming disposition, he was now panting for some new enterprise. His immediate object at Paris was to engage a mercantile company in the fur trade of the western coast of America, in which, however, he failed. I then proposed to him to go by land to Kamschatka, cross in some of the Russian vessels to Nootka Sound, fall down into the latitude of the Missouri, and penetrate to and through that to the United States. He eagerly seized the idea, and only asked to be assured of the permission of the Russian government. I interested in obtaining that from M. de Simoulin, M. P. of the Empress at Paris, but more especially the Baron de Grimm, M. P. of Saxe-Gotha, her more special agent and correspondent there, in matters not immediately diplomatic. Her permission was obtained, and an assurance of protection while the course of the voyage

should be through her territories. Ledyard set out from Paris and arrived at St. Petersburg after the Empress had left that place to pass the winter (I think) at Moscow. His finances not permitting him to make unnecessary stay at St. Petersburg, he left it with a passport from one of the ministers, and at two hundred miles from Kamschatka, was obliged to take up his winter quarters. He was preparing in the spring to resume his journey, when he was arrested by an officer of the Empress, who, by this time, had changed her mind, and forbidden his proceeding. He was put into a close carriage and conveyed day and night, without ever stopping, till they reached Poland, where he was set down and left to himself. The fatigue of this journey broke down his constitution, and when he returned to Paris, his bodily strength was much impaired. His mind, however, remained firm; and after this he undertook the journey to Egypt. I received a letter from him, full of sanguine hopes, dated at Cairo, the 15th of November, 1788, the day before he was to set out for the head of the Nile, on which day, however, he ended his career and life; and thus failed the first attempt to explore the western part of our nothern continent.

In 1792 I proposed to the A. P. S., that we should set on foot a subscription to engage some competent person to explore that region in the opposite direction, that is, by ascending the Missouri, crossing the Stony mountains, and descending the nearest river to the Pacific. Captain Lewis being then stationed at

Charlottesville on the recuiting service, warmly solicited me to obtain for him the execution of that object. I told him it was proposed that the person engaged should be attended by a single companion only, to avoid exciting alarm among the Indians. This did not deter him. But Mr. André Michaux, a professed botanist, author of the "*Flora Boreali-Americana*," and of the "*Historie des chenes d'Amerique*," offering his services, they were accepted. He received his instructions, and when he had reached Kentucky in the prosecution of his journey, he was overtaken by an order from the minster of France then at Philadelphia, to relinquish the expedition, and to pursue elsewhere the botanical inquiries on which he was employed by that government; and thus failed the second attempt for exploring that region.

In 1803, the act for establishing trading houses with the Indian tribes being about to expire, some modifications of it were recommended to Congress by a confidential message of January 18th, and an extension of its views to the Indians on the Missouri. In order to prepare the way, the message proposed the sending an exploring party to trace the Missouri to its source, to cross the highlands and follow the best water communication which offered itself from thence to the Pacific Ocean. Congress approved the proposition, and voted a sum of money for carrying it into execution. Captain Lewis, who had then been near two years with me as private secretary, immediately renewed his solicitations to have the direction of the

party. I had now had opportunities of knowing him intimately. Of courage undaunted, possessing a firmness and perseverance of purpose which nothing but impossibilities could divert from its direction, careful as a father of those committed to his charge, yet steady in the maintenance of order and discipline, intimate with the Indian character, customs and principles. Habituated to the hunting life, guarded by exact observation of the vegetables and animals of his own country, against losing time in the description of objects already possessed, honest, disinterested, liberal, of sound understanding, and a fidelity to truth so scrupulous that whatever he should report would be as certain as if seen by ourselves, with all these qualifications as if selected and implanted by nature in one body, for this express purpose, I could have no hesitation in confiding the enterprise to him. To fill up the measure desired, he wanted nothing but a greater familiarity with the technical language of the natural sciences, and readiness in the astronomical observations necessary for the geography of his route. To acquire these he repaired immediately to Philadelphia, and placed himself under the tutorage of the distinguished professors of that place, who, with a zeal and emulation, enkindled by an ardent devotion to science, communicated to him freely the information requisite for the purposes of the journey. While attending to at Lancaster, the fabrication of the arms with which he chose that his men should be provided, he had the

benefit of daily communication with Mr. Andrew Ellicott, whose experience in astronomical observation and practice of it in the woods, enabled him to apprise Captain Lewis of the wants and difficulties he would encounter, and of the substitutes and resources offered by a woodland and uninhabited country. Deeming it necessary he should have some person with him of known competence to the direction of the enterprise, and to whom he might confide it, in the event of accident to himself, he proposed William Clarke, brother of General George Rogers Clarke, who was approved, and with that veiw received a commission of captain.

In April, 1803, a draught of his instructions was sent to Captain Lewis, and on the 20th of June they were signed in the following form:

"To Meriwether Lewis, Esquire, Captain of the 1st regiment of infantry of the United States of America:

"Your situation as Secretary of the President of the United States has made you acquainted with the objects of my confidential message of January 18th, 1803, to the legislature; you have seen the act they passed, which, though expressed in general terms, was meant to sanction those objects, and you are appointed to carry them into execution.

"Instruments for ascertaining by celestial observations, the geography of the country through which you will pass, have been already provided. Light articles for barter and presents among the Indians, arms for your attendants, say for from ten to twelve

men, boats, tents and other travelling apparatus, with ammunition, medicine, surgical instruments and provisions, you will have prepared with such aids as the Secretary of War can yield in his departments; and from him also you will receive authority to engage among our troops, by voluntary agreement, the number of attendants above mentioned, over whom you, as their commanding officer, are invested with all the powers the laws give in such a case.

"As your movements while within the limits of the United States will be better directed by occasional communications, adapted to circumstances as they arise, they will not be noticed here. What follows will respect your proceedings after your departure from the United States.

"Your mission has been communicated to the ministers here from France, Spain and Great Britain, and through them to their governments; and such assurances given them as to its objects, as we trust will satisfy them. The country of Louisiana having been ceded by Spain to France, the passport you have from the minister of France, the representative of the present sovereign of that country, will be a protection with all its subjects; and that from the minister of England will entitle you to the friendly aid of any traders of that allegiance with whom you may happen to meet.

"The object of your mission is to explore the Missouri river, and such principal streams of it, as, by its course and communication with the waters of the

Pacific ocean, whether the Columbia, Oregon, Colorado, or any other river, may offer the most direct and practicable water communication across the continent for the purposes of commerce.

"Beginning at the mouth of the Missouri, you will take observations of latitude and longitude at all remarkable points on the river, and especially at the mouths of rivers, at rapids, at islands, and other places and objects distinguished by such natural marks and characters of a durable kind as that they may with certainty be recognized hereafter. The courses of the river between these points of observation may be supplied by the compass, the logline and by time, corrected by the observations themselves. The variations of the compass too, in different places, should be noticed.

"The interesting points of the portage between the heads of the Missouri, and of the water offering the best communication with the Pacific ocean, should also be fixed by observation, and the course of that water to the ocean, in the same manner as that of the Missouri.

"Your observations are to be taken with great pains and accuracy, to be entered distinctly and intelligibly for others as well as yourself, to comprehend all the elements necessary, with the aid of the usual tables, to fix the latitude and longitude of the places at which they were taken, and are to be rendered to the War Office, for the purpose of having the calculations made concurrently by proper persons

within the United States. Several copies of these as well as of your other notes should be made at leisure times, and put into the care of the most trustworthy of your attendants, to guard, by multiplying them, against the accidental losses to which they will be exposed. A further guard would be that one of these copies be on the paper of the birch, as less liable to injury from damp than common paper.

"The commerce which may be carried on with the people inhabiting the line you will pursue, renders a knowledge of those people important. You will, therefore, endeavor to make yourself acquainted, as far as a diligent pursuit of your journey shall admit, with the names of the nations and their numbers; the extent of their possessions; their relations with other tribes or nations; their language, traditions, monuments; their ordinary occupations in agriculture, fishing, hunting, war, arts, and the implements for these; their food, clothing and domestic accommodations; the diseases prevalent among them, and the remedies they use; moral and physical circumstances which distinguish them from the tribes we know; peculiarities in their laws, customs and dispositions, and articles of commerce they may need or furnish; and to what extent; and, considering the interest which every nation has in extending and strengthening the authority of reason and justice among the people around them, it will be useful to acquire what knowledge you can of the state of morality, religion, and information among them, as it may better enable

those who may endeavor to civilize and instruct them to adopt their measures to the existing notions, and practices of those on whom they are to operate.

"Other objects worthy of notice will be, the soil and face of the country, its growth and vegetable productions, especially those not of the United States, the animals of the country generally, and especially those not known in the United States; the remains and accounts of any which may be deemed rare or extinct; the mineral productions of every kind, but particularly metals, limestone, pit-coal and saltpetre; salines and mineral waters, noting the temperature of the last, and such circumstances as may indicate their character; volcanic appearances; climate, as characterized by the thermometer, by the proportion of rainy, cloudy, and clear days, by lightning, hail, snow, ice, by the access and recess of frost, by the winds prevailing at different seasons, the dates at which particular plants put forth or lose their flower or leaf, times of appearance of particular birds, reptiles or insects,

"Although your route will be along the channel of the Missouri, yet you will endeavor to inform yourself, by inquiry, of the character and extent of the country watered by its branches, and especially on its southern side. The north river, or Rio Bravo, which runs into the Gulf of Mexico, and the north river, or Rio Colorado, which runs into the Gulf of California, are understood to be the principal streams heading opposite to the waters of the Missouri, and

running southwardly. Whether the dividing grounds between the Missouri and them are mountains or flat lands, what are their distance from the Missouri, the character of the intermediate country, and the people inhabiting it, are worthy of particular inquiry. The northern waters of the Missouri are less to be inquired after, because they have been ascertained to a considerable degree, and are still in a course of ascertainment by English traders and travellers. But if you can learn anything certain of the most northern source of the Mississippi, and of its position relatively to the Lake of the Woods, it will be interesting to us. Some account, too, of the path of the Canadian traders from the Mississippi, at the mouth of the Ouisconsing to where it strikes the Missouri, and of the soil and rivers in its course, is desirable.

"In all your intercourse with the natives, treat them in the most friendly and conciliatory manner which their own conduct will admit; allay all jealousies as to the object of your journey, satisfy them of its innocence; make them acquainted with the position, extent, character, peaceable and commercial dispositions of the United States, of our wish to be neighborly, friendly and useful to them, and of our dispositions to a commercial intercourse with them; confer with them on the points most convenient as mutual emporiums, and the articles of most desirable interchange for them and us. If a few of their influential chiefs within practicable distance,

wish to visit us, arrange such a visit with them, and furnish them with authority to call on our officers, on their entering the United States, to have them conveyed to this place at the public expense. If any of them should wish to have some of their young people brought up with us, and taught such arts as may be useful to them, we will receive, instruct, and take care of them. Such a mission, whether of influential chiefs or of young people, would give some security to your own party. Carry with you some matter of the kine pox; inform those of them with whom you may be, of its efficacy as a preservative from the small pox; and instruct and encourage them in the use of it. This may be especially done wherever you winter.

"As it is impossible for us to foresee in what manner you will be received by those people, whether with hospitality or hostility, so is it impossible to prescribe the exact degree of perseverance with which you are to pursue your journey. We value too much the lives of citizens to offer them to probable destruction. Your numbers will be sufficient to secure you against the unauthorized opposition of individuals or of small parties; but if a superior force, authorized or not authorized by a nation, should be arrayed against your further passage, and inflexibly determined to arrest it, you must decline its farther pursuit, and return. In the loss of yourselves, we should lose also the information you will have acquired. By returning safely with that, you may

enable us to renew the essay with better calculated means. To your own discretion, therefore, must be left the degree of danger you may risk, and the point at which you should decline, only saying we wish you to err on the side of your safety, and to bring us back your party safe, even if it be with less information.

"Should you reach the Pacific ocean, inform yourself of the circumstances which may decide whether the furs of those parts may not be collected as advantageously at the head of the Missouri (convenient as is supposed to the waters of the Colorado and Oregon or Columbia), as at Nootka Sound, or any other point of that coast; and that trade be consequently conducted through the Missouri and United States more beneficially than by the circumnavigation now practised.

"As far up the Missouri as the white settlements extend, an intercourse will propably be found to exist between them and the Spanish posts of St. Louis opposite Cahokia, or St. Genevieve opposite Kaskaskia. From still further up the river, the traders may furnish a conveyance for letters. Beyond that, you may perhaps be able to engage Indians to bring letters for the government to Cahokia or Kaskaskia, on promising that they shall there receive such special compensation as you shall have stipulated with them. Avail yourself of these means to communicate to us, at seasonable intervals, a copy of your journal, notes, and observations, of

every kind, putting into cypher whatever might do injury if betrayed.

"On your arrival on that coast, endeavor to learn if there be any post within your reach frequented by the sea vessels of any nation, and to send two of your trusty people back by sea, in such way as shall appear practicable, with a copy of your notes; and should you be of opinion that the return of your party by the way they went will be imminently dangerous, then ship the whole, and return by sea, by the way either of Cape Horn or the Cape of Good Hope, as you shall be able. As you will be without money, clothes, or provisions, you must endeavor to use the credit of the United States to obtain them, for which purpose open letters of credit shall be furnished you, authorizing you to draw on the executive of the United States, or any of its officers, in any part of the world, on which drafts can be disposed of, and to apply with our recommendations to the consuls, agents, merchants, or citizens of any nation with which we have intercourse, assuring them in our name, that any aids they may furnish you, shall be honorably repaid, and on demand. Our consuls, Thomas Hewes at Batavia in Java, William Buchanan in the Isles of France and Bourbon, and John Elmslie at the Cape of Good Hope, will be able to supply your necessities by drafts on us.

"Should you find it safe to return by the way you go after sending two of your party round by sea,

or with your whole party, if no conveyance by sea can be found, do so; making such observations on your return, as may serve to supply, correct, or confirm those made on your outward journey.

"On re-entering the United States and reaching a place of safety, discharge any of your attendants who may desire and deserve it, procuring for them immediate payment of all arrears of pay and clothing which may have incurred since their departure, and assure them that they shall be recommended to the liberality of the legislature for the grant of a soldier's portion of land each, as proposed in my message to Congress; and repair yourself with your papers to the seat of government.

"To provide in the accident of your death, against anarchy, dispersion and the consequent danger of your party, and total failure of the enterprise, you are hereby authorized, by any instrument signed and written in your own hand, to name the person among them who shall succeed to the command on your decease, and by like instruments to change the nomination from time to time as further experience of the characters accompanying you shall point out superior fitness; and all the powers and authorities given to yourself are, in the event of your death, transferred to, and vested in the successor so named, with further power to him, and his successors in like manner, to name each his successor, who, on the death of his predecessor, shall be invested with all the powers and authorities given to yourself.

"Given under my hand at the city of Washington, this 20th day of June, 1803.
"THOMAS JEFFERSON, President of the U. States of America."

While these things were going on here, the country of Louisiana, lately ceded by Spain to France, had been the subject of negotiation between us and this last power; and had actually been transferred to us by treaties executed at Paris on the 30th of April. This information, received about the 1st day of July, increased infinitely the interest we felt in the expedition, and lessened the apprehensions of interruption from other powers. Everything in this quarter being now prepared, Captain Lewis left Washington on the 5th of July, 1803, and proceeded to Pittsburg, where other articles had been ordered to be provided for him. The men, too, were to be selected from the military stations on the Ohio. Delays of preparation, difficulties of navigation down the Ohio, and other untoward obstructions, retarded his arrival at Cahokia until the season was so far advanced as to render it prudent to suspend his entering the Missouri before the ice should break up in the succeeding spring. From this time his journal, now published, will give the history of his journey to and from the Pacific ocean, until his return to St. Louis on the 23d of September, 1806. Never did a similar event excite more joy through the United States.

The humblest of its citizens had taken a lively interest in the issue of this journey, and looked forward with impatience for the information it would furnish. Their anxieties, too, for the safety of the corps had been kept in a state of excitement by lugubrious rumors, circulated from time to time on uncertain authorities, and uncontradicted by letters or other direct information from the time they had left the Mandan towns on their ascent up the river in April of the preceding year, 1805, until actual return to St. Louis.

It was the middle of Feb., 1807, before Captain Lewis with his companion Clarke reached the city of Washington, where Congress was then in session. That body granted to the two chiefs and their followers, the donation of lands which they had been encouraged to expect in reward of their toils and dangers. Captain Lewis was soon after appointed Governor of Louisiana, and Captain Clarke a general of its militia, and agent of the United States for Indian affairs in that department.

A considerable time intervened before the Governor's arrival at St. Louis. He found the territory distracted by feuds and contentions among the officers of the government, and the people themselves divided by these into factions and parties. He determined at once to take no sides with either, but to use every endeavor to conciliate and harmonize them. The even-handed justice he administered to all soon established a respect for his person

and authority, and perseverance and time wore down animosities, and reunited the citizens again into one family.

Governor Lewis had from early life been subject to hypocondriac affections. It was a constitutional disposition in all the nearer branches of the family of his name, and was more immediately inherited by him from his father. They had not, however, been so strong as to give uneasiness to his family. While he lived with me in Washington, I observed at times sensible depressions of mind, but knowing their constitutional source, I estimated their course by what I had seen in the family. During his western expedition, the constant exertion which that required of all the faculties of body and mind, suspended these distressing affections; but after his establishment at St. Louis in sedentary occupations, they returned upon him with redoubled vigor, and began seriously to alarm his friends. He was in a paroxysm of one of these when his affairs rendered it necessary for him to go to Washington. He proceeded to the Chickasaw bluffs, where he arrived on the 15th of September, 1809, with a view of continuing his journey thence by water. Mr. Neely, agent of the United States with the Chickasaw Indians, arriving there two days after, found him extremely indisposed, and betraying at times some symptoms of a derangement of mind. The rumors of a war with England, and apprehensions that he might lose the papers he was bringing on, among

which were the vouchers of his public accounts, and the journals and papers of his western expedition, induced him here to change his mind, and to take his course by land through the Chickasaw country. Although he appeared somewhat relieved Mr. Neely kindly determined to accompany and watch over him. Unfortunately, at their encampment, after having passed the Tennessee one day's journey, they lost two horses, which obliging Mr. Neely to halt for their recovery, the Governor proceeded under a promise to wait for him at the house of the first white inhabitant on his road. He stopped at the house of a Mr. Grinder, who, not being at home, his wife, alarmed at the symptoms of derangement she discovered, gave him up the house, and retired to rest herself in an out-house; the Governor's and Neely's servants lodging in another. About 3 o'clock in the night he did the deed which plunged his friends into affliction, and deprived his country of one of her most valued citizens, whose valor and intelligence would have been now employed in avenging the wrongs of his country, and in emulating by land the splendid deeds which have honored her arms on the ocean. It lost, too, to the nation the benefit of receiving from his own hand the narrative now offered them of his sufferings and successes in endeavoring to extend for them the boundaries of science, and to present to their knowledge that vast and fertile country which their sons are destined to fill with arts, with science, with freedom and happiness.

To this melancholy close of the life of one whom posterity will declare not to have lived in vain, I have only to add that all the facts I have stated, are either known to myself, or communicated by his family or others, for whose truth I have no hesitation to make myself reponsible; and I conclude with tendering you the assurances of my respect and consideration.[1]

GENERAL THADDEUS KOSCIUSKO.

1. *Circumstances relating to General Kosciusko previously to his joining the American Army.* Kosciusko was born in the Grand Duchy of Lithuania in the year 1756. His family was noble, and his patrimony considerable; circumstances which he justly appreciated, for as belonging to himself they were never matters of boasting, and rarely subjects of notice, and as the property of others only regarded as advantages when accompanied by good sense and good morals. The workings of his mind on the subject of civil liberty were early and vigorous; before he was twenty the vassalage of his serfs filled him with abhorrence, and the first act of his manhood was to break their fetters.

In the domestic quarrel between the king and the dissidents in 1761, he was too young to take a part, but the partition of Poland in 1772 (of which

[1] This biographical account of Lewis was used as a preface to the "History of the Expedition of Lewis and Clarke" published in 1814.

this quarrel was one of the pretences), engaged him in the defence of his country, and soon made him sensible of the value of military education, which he afterwards sought in the schools of Paris. It was there and while prosecuting this object, that he first became acquainted with the name of America, and the nature of the war in which the British colonies were then engaged with the mother country. In the summer of 1776 he embarked for this country, and in October of that year was appointed by Congress a colonel of engineers.

2. *Services of the General during the War.* In the spring of 1777 he joined the northern army, and in July following the writer of this notice left him on Lake Champlain engaged in strengthening our works at Ticonderoga and Mount Independence. The unfortunate character of the early part of this campaign is sufficiently known. In the retreat of the American army Kosciusko was distinguished for activity and courage, and upon him devolved the choice of camps and posts and everything connected with fortifications. The last frontier taken by the army while commanded by Gen. Schuyler was on an island in the Hudson near the mouth of the Mohawk river, and within a few miles of Albany. Here Gates, who had superseded Schuyler, found the army on the —— day of August. Public feeling and opinion were strikingly affected by the arrival of this officer, who gave it a full and lasting impression by ordering the army to advance upon

the enemy. The state of things at that moment are well and faithfully expressed by that distinguished officer, Col. Udney Hay, in a letter to a friend. "Fortune," says he, "as if tired of persecuting us, had began to change, and Burgoyne had suffered materially on both his flanks. But these things were not of our doing; the main army, as it was called, was hunted from post to pillar, and dared not to measure its strength with the enemy; much was wanting to re-inspire it with confidence in itself, with that self-respect without which army is but a flock of sheep, a proof of which is found in the fact, that we have thanked in general orders a detachment double the force of that of the enemy, for having dared to return their fire. From this miserable state of despondency and terror, Gates' arrival raised us, as if by magic. We began to hope and then to act. Our first step was to Stillwater, and we are now on the heights called Bhemus', looking the enemy boldly in the face. Kosciusko has selected this ground, and has covered its weak point (its right) with redoubts from the hill of the river." In front of this camp thus fortified two battles were fought, which eventuated in the retreat of the enemy and his surrender at Saratoga !

The value of Colonel Kosciusko's services during this campaign, and that of 1778, will be found in the following extract from a letter of General Gates written in the spring of 1780:

"My dear friend: After parting with you at Yorktown, I got safely to my own fireside, and without inconvenience of any kind, excepting sometimes cold toes and cold fingers. Of this sort of punishment, however, I am, it seems, to have no more, as I am destined by the Congress to command in the South. In entering on this new and (as Lee says) most difficult theatre of the war, my first thoughts have been turned to the selections of an engineer, an adjutant-general and a quarter-master-general, Kosciusko, Hay and yourself, if I can prevail upon you all, are to fill these offices, and will fill them well. The *excellent qualities* of the Pole, which no one knows better than yourself, are now acknowledged at head-quarters, and may induce others to prevent his joining us. But his promise once given, we are sure of him."

The —— of Gates, for which the preceding extract had prepared us, was given and accepted, and though no time was lost by Kosciusko, his arrival was not early enough to enable him to give his assistance to his old friend and General. But to Greene (his successor) he rendered the most important services to the last moment of the war, and which were such as drew from that officer the most lively, ardent, repeated acknowledgments, which induced Congress, in October, 1783, to bestow upon him the brevet of brigadier general, and to pass a vote declaratory of *their high sense of his faithful and meritorious conduct.*

The war having ended, he now contemplated returning to Poland, and was determined in this measure by a letter from Prince Joseph Poniatowski, nephew of the king and generalissimo of the army. It was, however, ten years after this period (1783) before Kosciusko drew the sword on the frontiers of Cracovia.

3. *Conduct of Kosciusko in France.* When Bonaparte created the Duchy of Warsaw and bestowed it on the King of Saxony, great pains were taken to induce Kosciusko to lend himself to the frontier and support of that policy. Having withstood both the smiles and the frowns of the minister of police, a last attempt was made through the General's countrywoman and friend, the Princess Sassiche. The argument she used was founded on the condition of Poland, which, she said, no change could make worse, and that of the General which even a small change might make better. "But on this head I have a *carte blanche*, Princess," answered the General (taking her hand and leading her to her carriage), "it is the first time in my life I have wished to shorten your visit; but you shall not make me think less respectfully of you than I now do."

When these attempts had failed, a manifesto in the name of Kosciusko, dated at Warsaw and addressed to the Poles, was fabricated and published at Paris. When he complained of this abuse of his name, etc., the minister of police advised him to go to Fontainbleau.

ANECDOTES OF BENJAMIN FRANKLIN.[1]

Our revolutionary process, as is well known, commenced by petitions, memorials, remonstances, etc., from the old Congress. These were followed by a non-importation agreement, as a pacific instrument of coercion. While that was before us, and sundry exceptions, as of arms, ammunition, etc., were moved from different quarters of the house, I was sitting by Dr. Franklin and observed to him that I thought we should except books; that we ought not to exclude science, even coming from an enemy. He thought so too, and I proposed the exception, which was agreed to. Soon after it occurred that medicine should be excepted, and I suggested that also to the Doctor. "As to that," said he, "I will tell you a story. When I was in London, in such a year, there was a weekly club of physicians, of which Sir John Pringle was president, and I was invited by my friend Dr. Fothergill to attend when convenient. Their rule was to propose a thesis one week and discuss it the next. I happened there when the question to be considered was whether physicians had, on the whole, done most good or harm? The young members, particularly, having discussed it very learnedly and eloquently till the subject was exhausted, one of

[1] These anecdotes of Benjamin Franklin were written at the request of Robert Walsh, one of Jefferson's correspondents, and inclosed to him under letter of December 4, 1818. See *ante*, Volume XV, page 175.

them observed to Sir John Pringle, that although it was not usual for the President to take part in a debate, yet they were desirous to know his opinion on the question. He said they must first tell him whether, under the appellation of physicians, they meant to include *old women*, if they did he thought they had done more good than harm, otherwise more harm than good."

The confederation of the States, while on the carpet before the old Congress, was strenuously opposed by the smaller States, under apprehensions that they would be swallowed up by the larger ones. We were long engaged in the discussion; it produced great heats, much ill humor, and intemperate declarations from some members. Dr. Franklin at length brought the debate to a close with one of his little apologues. He observed that "at the time of the union of England and Scotland, the Duke of Argyle was most violently opposed to that measure, and among other things predicted that, as the whale had swallowed Jonah, so Scotland would be swallowed by England. However," said the Doctor, "when Lord Bute came into the government, he soon brought into its administration so many of his countrymen, that it was found in event that Jonah swallowed the whale." This little story produced a *general* laugh, and restored good humor, and the article of difficulty was passed.

When Dr. Franklin went to France, on his revolutionary mission, his eminence as a philosopher,

his venerable appearance, and the cause on which he was sent, rendered him extremely popular. For all ranks and conditions of men there, entered warmly into the American interest. He was, therefore, feasted and invited into all the court parties. At these he sometimes met the old Duchess of Bourbon, who, being a chess player of about his force, they very generally played together. Happening once to put her king into prize, the Doctor took it. "Ah," said she, "we do not take kings so." "We do in America," said the Doctor.

At one of these parties the emperor Joseph III. then at Paris, incog., under the title of Count Falkenstein, was overlooking the game in silence, while the company was engaged in animated conversations on the American question. "How happens it M. le Comte," said the Duchess, "that while we all feel so much interest in the cause of the Americans, you say nothing for them ?" "I am a king by trade," said he.

When the Declaration of Independence was under the consideration of Congress, there were two or three unlucky expressions in it which gave offence to some members. The words "Scotch and other foreign auxiliaries" excited the ire of a gentleman or two of that country. Severe strictures on the conduct of the British king, in negotiating our repeated repeals of the law which permitted the importation of slaves, were disapproved by some Southern gentlemen, whose reflections were not yet matured

to the full abhorrence of that traffic. Although the offensive expressions were immediately yielded these gentlemen continued their depredations on other parts of the instrument. I was sitting by Dr. Franklin, who perceived that I was not insensible to these mutilations. "I have made it a rule," said he, "whenever in my power, to avoid becoming the draughtsmen of papers to be reviewed by a public body. I took my lesson from an incident which I will relate to you. When I was a journeyman printer, one of my companions, an apprentice hatter, having served out his time, was about to open shop for himself. His first concern was to have a handsome sign-board, with a proper inscription, He composed it in these words, 'John Thompson, *Hatter*, *makes* and *sells hats* for ready money,' with a figure of a hat subjoined; but he thought he would submit it to his friends for their amendments. The first he showed it to thought the word '*Hatter*' tautologous, because followed by the words 'makes hats,' which show he was a hatter. It was struck out. The next observed that the word '*makes*' might as well be omitted, because his customers would not care who made the hats. If good and to their mind, they would buy, by whomsoever made. He struck it out. A third said he though the words '*for ready money*' were useless, as it was not the custom of the place to sell on credit. Every one who purchased expected to pay. They were parted with, and the inscription now stood, 'John

Thompson sells hats.' '*Sells hats!*' says his next friend. Why nobody will expect you to give them away, what then is the use of that word ? It was stricken out, and '*hats*' followed it, the rather as there was one painted on the board. So the inscription was reduced ultimately to 'John Thompson' with the figure of a hat subjoined.''

The Doctor told me at Paris the two following anecdotes of the Abbé Raynal. He had a party to dine with him one day at Passy, of whom one half were Americans, the other half French, and among the last was the Abbé. During the dinner he got on his favorite theory of the degeneracy of animals, and even of man, in America, and urged it with his usual eloquence. The Doctor at length noticing the accidental stature and position of his guests, at table, "Come," says he, "M. l'Abbé, let us try this question by the fact before us. We are here one half Americans, and one half French, and it happens that the Americans have placed themselves on one side of the table, and our French friends are on the other. Let both parties rise, and we will see on which side nature has degenerated." It happened that his American guests were Carmichael, Harmer, Humphreys, and others of the finest sature and form; while those of the other side were remarkably diminutive, and the Abbé himself particularly, was a mere shrimp. He parried the appeal, however, by a complimentary admission of

exceptions, among which the Doctor himself was a conspicuous one.

The Doctor and Silas Deane were in conversation one day at Passy, on the numerous errors in the Abbé's "*Histoire des deux Indes*," when he happened to step in. After the usual salutations, Silas Deane said to him, "The Doctor and myself, Abbé, were just speaking of the errors of fact into which you have been led in your history." "Oh, no Sir," said the Abbé, "that is impossible. I took the greatest care not to insert a single fact, for which I had not the most unquestionable authority." "Why," says Deane, "there is the story of Polly Baker, and the eloquent apology you have put into her mouth, when brought before a court of Massachusetts to suffer punishment under a law which you cite, for having had a bastard. I know there never was such a law in Massachusetts." "Be assured," said the Abbé, "you are mistaken, and that that is a true story. I do not immediately recollect indeed the particular information on which I quote it; but I am certain that I had for it unquestionable authority." Doctor Franklin, who had been for some time shaking with unrestrained laughter at the Abbé's confidence in his authority for that tale, said, "I will tell you, Abbé, the origin of that story. When I was a printer and editor of a newspaper, we were sometimes slack of news, and to amuse our customers, I used to fill up our vacant columns with anecdotes and fables, and fancies of

my own, and this of Polly Baker is a story of my making, on one of these occasions." The Abbé, without the least disconcert, exclaimed with a laugh, "Oh, very well, Doctor, I had rather relate your stories than other men's truths."

The "European Magazine" Jefferson

Reproduction from the Original Engraving.

A delineation after the Stuart type of Jefferson. It was first published by I. Sewell, Cornhill, England, on the 1st of June, 1802, in the "European Magazine."

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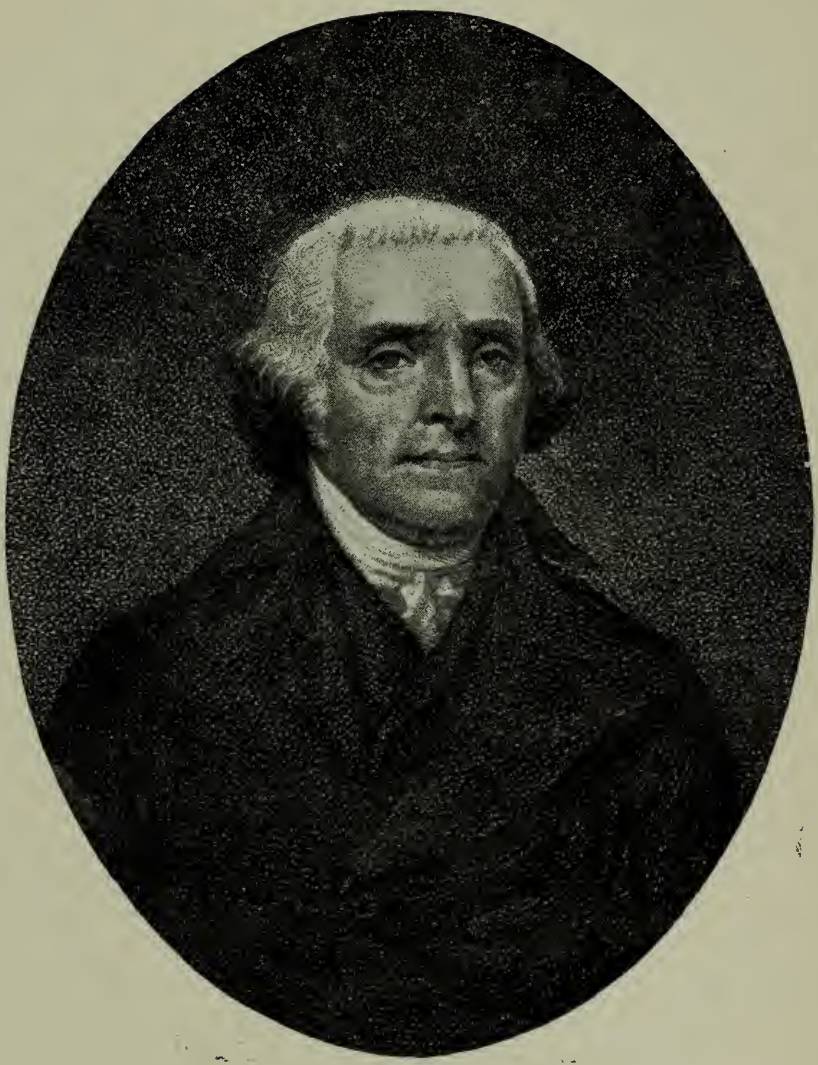

THE JEFFERSON PAPERS.

FROM THE COLLECTION PRESENTED TO THE MASSACHUSETTS HISTORICAL SOCIETY IN JUNE, 1898, BY JEFFERSON'S GREAT-GRANDSON, THOMAS JEFFERSON COOLIDGE.

PREFACE.[1]

Like many eminent men of his time, Thomas Jefferson was in the habit of preserving every scrap of writing which came into his hands, and of keeping copies of all of his own letters. Consequently he left at his death a very great mass of letters and papers of priceless value for biographical and historical purposes, together with many which would not now be thought worth preserving. Subsequently the whole collection was roughly divided into two parts, one comprising documents mainly relating to his public life, and the other letters and papers mainly connected with his private and personal relations. By an Act of Congress, approved April 12, 1848, the first portion was acquired by the United States, and is now deposited in the State Department at Washington. The second portion was presented to the Historical Society, in June, 1898, by Mr. Jefferson's great-grandson, Thomas

[1] This is the first part of the Preface to the "Jefferson Papers" when they were originally issued in 1900 in the Collections of the Massachusetts Historical Society, Seventh Series, Volume 1. The editorial footnotes throughout the "Jefferson Papers" were made by the editors who supervised the compiling of the volume for the Society—Charles Card Smith, Thomas Jefferson Coolidge, and Archibald Cary Coolidge. It is due to their courtesy and the courtesy of the Massachusetts Historical Society that the letters written by Jefferson comprised in the "Jefferson Papers" are now published for the first time in any edition of Jefferson's writings.

Jefferson Coolidge; and it is from this latter portion of the Jefferson papers that the letters printed in this volume have been for the most part selected. Few of them are of a political character or deal with public affairs; but they very clearly illustrate many phases of Jefferson's character, and show the range and variety of his interests in his more private life.

The volume is almost equally divided between letters written by Jefferson himself and letters written to[1] him by personal or political friends. It is not surprising, but is worthy of note, that in the original separation of the papers letters were not always placed in the division to which they would seem naturally to have belonged, and that a letter and its answer were not always kept together. The letters to Jefferson are all original autographs: the letters from him are, with the exception of a few where the Committee have had access to the letters actually sent and of a few rough draughts, either copies made in the ordinary way by pressure on moistened paper or copies made by a polygraph, or stylograph, as Jefferson sometimes called it. This instrument produced a perfect facsimile, indistinguishable from the original letter, and as it is no longer in use. and is not described in any of the cyclopædias examined by the Committee, it may

[1] The letters written to Jefferson, with the exception of a letter from Lafayette, have not been reproduced, in connection with the "Jefferson Papers," presented in the following pages, as they are too numerous to include them all.

be of interest to quote a description of one of two actually used by Jefferson, which is now in the Rouss Laboratory of the University of Virginia. "The polygraph," writes Professor Francis H. Smith, of that institution, "is a very ingenious double writing-desk, with duplicate tables, pens, and inkstands. The pens are connected together at an invariable distance by a system of jointed parallelograms, with two fixed centres, such that the pens are always parallel. Whatever movement is impressed upon one is simultaneously by the connecting linkwork communicated to the other pen. Hence, if one traces on a sheet letters or figures, its companion traces at the same time identically the same forms on another sheet. The writer, therefore, produces two identical pages at the same time. He does it with sensibly no more fatigue than if he were using one pen only, for the weight of the pens and linkwork is supported by a strand of delicate spring wires from a silver arm extending from the frame of the box above, out of the way of the writer. By this polygraph the copy may be made on paper and with ink of the same kind as the original."

Most of the letters are in excellent condition; but many of those which were copied by pressure on moistened paper are either wholly or in large part illegible, and a considerable number have been so mutilated by carelessness or accident as to render many portions of the letter unintelligible. Writing

more than seventy years ago, when the first collected edition of Jefferson's Writings was passing through the press, his only surviving daughter described in an unpublished letter to her son-in-law, Joseph Coolidge, Jr., the condition of the manuscripts used in the preparation of that work. "The originals themselves are in many places so faded as to be almost entirely obliterated. For pages together the girls have to take advantage of the broad light of a noonday sun, frequently unable to read them but with the assistance of a looking-glass applied to the back, where alone the impression shows. A few lines will sometimes cost as many days. This is not the state of the *whole*, but a *very considerable* portion. * * * We are, the girls and myself, very closely employed from 5 to 8 hours a day with them, after which they go through a second examination by the editor, whose trouble is much lessened by our *pioneering* the way before him." Much the same condition of things exists with regard to the letters now in the posession of the Historical Soceity, though it is probable that there are fewer letters in this collection which were copied by pressure than there were in the volumes published by Jefferson's grandson.[1]

[1] The latter part of this Preface has been omitted as it consists of a biographical sketch of Jefferson, and would, therefore, only convey information that is given elsewhere in the present edition of Jefferson's Writings.

THE JEFFERSON PAPERS.

TO LUCY NELSON.[1]

WILLIAMSBURGH, October 24, 1777.

DEAR MADAM,—Colonel Nelson's merit and his present command place him in my judgment without a competitor for the post to which you wish him appointed. It is a great happiness to me, therefore, that, while I pursue the dictates of my own judgment, I am at the same time subservient to your wishes. One truth only it behooves me to warn you of, that you may not be deceived by overrating anyone's assistance. No man, my dear madam, who acts above board has influence in any appointments here, beyond the weight of his own vote. If this appointment should be obtained for Colonel Nelson it will be by the mere force of his personal merit. In thus undeceiving you, however, I do violence to my own gratification, as this error alone has produced to me the happiness of a letter from you.

Fortune seems to have drawn a line of separation between us. Though often in the same neighborhood, some unlucky star has still shuffled us asunder. When I count backwards the years since I had last the happiness of seeing you in this place, and recur

[1] This letter is printed from Jefferson's original draught indorsed on the reverse pages of Mrs. Nelson's letter.—EDS.

to my own lively memory of our friendship, I am almost induced to discredit my arithmetic. The affection I still retain for a family with whom I once lived in so much intimacy and confidence recalls to my mind often and often the most pleasing reflections. That heaven may shield the breast in which your happiness is embarked and administer to you every comfort of this life is the prayer of your sincere and affectionate friend

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TO WILLIAM S. SMITH.[1]

PARIS, July 9, 1786.

DEAR SIR,—I wrote you last on the 16th of June. Since that your favors of May 21 and June 12 have come to hand. The accounts of the King of Prussia are such that we may expect his exit soon.[2] He is like the snuff of a candle,—sometimes seeming

[1] Col. William Stephens Smith was born in New York City in 1755, and graduated at Princeton College in 1774. He served with distinction during the Revolutionary War; and on the opening of diplomatic relations was appointed first Secretary of Legation to the Court of Great Britain. He accompanied John Adams to London, and July 12, 1786, he was married by the Bishop of St. Asaph to Abigail, Mr. Adams's oldest child and only surviving daughter. After his return to America he held various civil appointments, and served one term in Congress. He died at Lebanon, N. Y., June 10, 1816. (See Journal and Correspondence of Miss Adams, daughter of John Adams, pp. 99–117; Appleton's Cyclopædia of American Biography, vol. v. p. 596; Lanman's Biographical Annals, p. 395.) The letter here given is printed from the original manuscript in the large and valuable collection of autograph letters given to the Historical Society by Mr. and Mrs. A. C. Washburn.—EDS.

[2] Frederick the Great died at Potsdam, August 17,. 1786, a little more than a month after the date of this letter.—EDS.

to be out, then blazing up again for a moment. It is thought here that his death will not be followed by any immediate disturbance of the public tranquillity; that his kingdom may be considered as a machine which will go of itself a considerable time with the winding up he has given it. Besides this he has for for some time employed his successor in his councils, who is endeavoring to possess himself of and to pursue his uncle's plan of policy.[1]

The connection which has long subsisted between the Van Staphorsts, the Grands, and this court is known to you. I think it probable that private solicitations first suggested the late appointment and might be the real efficient cause of it. The ostensible one, and which has some reality too, is the accommodation of the lenders in Holland. It will doubtless facilitate the borrowing money there for this country, and multiply the partisans of the new alliance. The policy of this country is indeed wise. What would have been said a dozen years ago had any one pretended to foretell that in that short space of time France would get Holland, America, and even England under her wing?

We have had here some strong altercations between the court and the parliament of Bordeaux. The latter used a language which a British parliament would not have dared to use. The court was in the wrong, and will have the wisdom and moderation

[1] Frederick William II., nephew and successor of Frederick the Great, was born September 25, 1744, and died December 16, 1797.—Eds.

to recede. The question is, whether lands, called Alluvions on the river Garonne, belong to the king or to the proprietors to whose soil they have been added.

I have received by Dr. Bancroft the portable copying-press; it is perfectly well made. Be so good as to present my compliments and thanks to Mr. Cavallo for his attention to it. To yourself I suppose you would rather I should present the money. This I will do the moment you will inform me of the sum. In your letter of May 21 you mention that you had paid the maker £5-10, but a former letter gave me reason to believe you had to pay something to another person for a board, or the box, or something else. I will beg the favor of you at the same time to inform me what a pair of chariot harness will cost in London, plated, not foppish but genteel, and I will add the price, or not add it to the bill I shall send you, according as I shall find it when compared with prices here. Cannot you invent some commissions for me here, by way of reprisal for the vexations I give you? Silk stockings, gillets, etc., for yourself, gewgaws and other contrivances for Madame? A propos, all hail, Madame! may your nights and days be many and full of joy! May their fruits be such as to make you feel the sweet union of parent and lover, but not so many as that you may feel their weight! May they be handsome and good as their mother, wise and honest as their father, but more milky! For your old age I will compose a prayer thirty years hence.

To return to business (for I am never tempted to pray but when a warm feeling for my friends comes athwart my heart). They tell me that they are about altering Dr. Ramsay's book in London in order to accommodate it to the English palate and pride.[1] I hope this will not be done without the consent of the author, and I do not believe that will be obtained. If the booksellers of London are afraid to sell it, I think it can be sold here. Even the English themselves will apply for it here. It is very much esteemed by those who have read it. The French translation will be out in a short time. There is no gutting in that. All Europe will read the English transactions in America as they really happened. To what purpose then hoodwink themselves? Like the foolish ostrich who, when it has hid its head, thinks its body cannot be seen. I will beg the favor of you to prevail on Mr. Dilly [2] to send me 50 copies by the diligence. We shall see by the sale of these what further number we may call for. I will undertake to justify this to the author. They must come unbound. It will be necessary at the

[1] The reference is to David Ramsay's "History of the Revolution of South Carolina from a British Province to an Independent State," published at Trenton in 1785. A French translation was published in 1787; and an English edition in 1788. See Allibone's Dictionary of Authors, vol. iii. p. 1734.—Eds.

[2] Charles Dilly, a well-known London bookseller, was born May 22, 1739, and died May 4, 1807. Among the books published by him were Boswell's Corsica, Tour to the Hebrides, and Life of Johnson, and Lord Chesterfield's Miscellaneous Works. He and an elder brother, Edward, had an extensive trade with America. See Dictionary of National Biography, vol. xv. pp. 91, 92.—Eds.

same time to put into some of the English papers the following advertisement.

"The bookseller to whom Dr. Ramsay's history of the revolution of South Carolina was addressed for sale, having been advised that the executing that commission would expose him to the actions of certain persons whose conduct in America, as therein represented, is not in their favor, the public are hereby notified that they may be furnished with the said work either in the original English, or well translated into French, by writing to *Froullé, libraire au quai des Augustins à Paris*, and franking their letters. An opportunity of sending it to London occurs every week by the diligence." Send me a paper or two with this advertisement in it.

To put an end to your trouble I will wish you a good night,—I beg your pardon. I had forgot that you would have it without my wishes. I bid you, therefore, a simple adieu, with assurances of my friendship and esteem.

TO MARTHA JEFFERSON RANDOLPH.[1]

NEW YORK, May 16, 1790.

MY DEAR PATSY,—Yours of the 25th of April came to hand ten days ago, and yesterday I received Mr.

[1] Martha, eldest child of Thomas and Martha (Wayles Skelton) Jefferson was born at Monticello in September, 1772; and when in her twelfth year accompanied her father to France, where she was carefully educated. In 1789 she returned to America with her father, and on the 23d of the following February was married to her second

Randolph's of the third instant. When I wrote to him last week, I hoped to have been soon rid of the periodical headache which had attacked me. It has indeed been remarkably slight since that, but I am not yet quite clear of it. I expect every fit to be the last. I inclose the newspapers for Mr. Randolph. He will probably judge, as the world does, from the style and subject of the Discourses on Davila, that they are the production of the Vice-President.[1] On Monday last the President was taken with a peripneumony, of threatening appearance; yesterday (which was the fifth day) he was thought by the physicians to be dying. However, about 4 o'clock in the evening, a copious sweat came on, his expectoration, which had been thin and ichorous, began to assume a well digested form, his articulation became distinct, and in the course of two hours it was evident he had gone through a favorable crisis. He continues mending to-day, and from total despair we are now in good hopes of him. Indeed, he is thought quite safe. My head does not permit me to add more than the affectionate love to you all, of yours,

cousin, Thomas Mann Randolph, Jr., eldest son of Col. Thomas Mann Randolph, of Tuckahoe, by whom she had ten children. She died September 27, 1836.—Eds.

[1] The Discourses on Davila were first published in the Gazette of the United States, at Philadelphia, in 1790. See Works of John Adams, vol. i. pp. 454, 618; vol. vi. p. 225.—Eds.

TO EDMUND PENDLETON.[1]

PHILADELPHIA, July 24, 1791.

DEAR SIR,—I received duly your favor of the 13th, and communicated it to the President. The titles of your relation were unquestionably strong of themselves, and still strengthened by your recommendation; but the place was before proposed to another, whose acceptance will probably fix it.

The President is indisposed with a tumor like that he had in New York the year before last. It does not as yet seem as if it would come to a head.

We are wonderfully slow in receiving news from General Scott.[2] The common accounts give reason to hope his expedition has succeeded well. You will have seen the rapidity with which the subscriptions to the bank were filled; as yet the delirium of speculation is too strong to admit sober reflection. It remains to be seen whether in a country whose capital is too small to carry on its own commerce,

[1] Edmund Pendleton was born in Caroline County, Va., September 9, 1721. His early advantages were small, and he began his career in the office of the County Clerk. In 1744 he was admitted to the bar; and in 1752 he was elected to the House of Burgesses. From that time down to his death, October 23, 1803, he filled a conspicuous place in public life as legislator and jurist, and was described by Jefferson as "taken all in all the ablest man in debate I ever met with." (See Appleton's Cyclopædia of American Biography, vol. iv. pp. 708, 709; Randall's Life of Jefferson, vol. i. p. 198.) The letter which follows is printed from the collection of Jefferson's letters given to the Historical Society by Mr. and Mrs. A. C. Washburn.—EDS.

[2] General Charles Scott, a native of Virginia, who had removed to Kentucky, was then serving in St. Clair's unfortunate expedition against the Indians.—EDS.

to establish manufactures, erect buildings, etc., such sums should have been withdrawn from these useful pursuits to be employed in gambling. Whether it was well judged to force on the public a paper circulation of so many millions, for which they will be paying about 7 per cent. per annum, and thereby banish as many millions of gold and silver for which they would have paid no interest. I am afraid it is the intention to nourish the spirit of gambling by throwing in from time to time new aliment.

The question of war and peace in Europe is still doubtful. The French Revolution proceeds steadily, and is, I think, beyond the danger of accident of every kind. The success of that will ensure the progress of liberty in Europe and its preservation here. The failure of that would have been a powerful argument with those who wish to introduce a king, lords, and commons here, a sect which is all head and no body. Mr. Madison has had a little bilious touch at New York, from which he is recovered, however. Adieu, my dear Sir. Your affectionate friend and servant.

TO SAMUEL BIDDLE.

PHILADELPHIA, December 12, 1792.

SIR,—Having asked the favor of Mr. Hollingsworth to look out for a person in his neighborhood who would be willing to go to Virginia and overlook a farm for me, he informs me that you will undertake

it for a hundred and twenty dollars a year. He seems to have mistaken me in the circumstance of time, as he mentions that you would expect to go about the new year. I had observed to him that I should not want a person till after the next harvest. The person who now takes care of the place is engaged for the ensuing year, which finishes with us about November; but I should wish you to be there by seed time in order to prepare the crop of the following year. The wages are a good deal higher than I expected, as Mr. Hollingsworth mentioned that the usual wages in your neighborhood were from £25 to £30 Maryland currency. However, I consent to give them, and the rather as there will be some matters under your care beyond the lines of the farm. I have a smith and some sawyers who will require to be seen once a day, and the first year of your being there I shall have some people employed in finishing a canal, who will also be to be attended to.

The place you are to overlook is that on which I live, and to which I shall return in March next. It is 70 miles above Richmond, on the North branch of James River, exactly where it breaks through the first ridge of little mountains, near the village of Charlottesville, in Albemarle county. It is 225 miles from Elkton, a southwest course. From this description you may find it in any map of the country. The climate is very temperate both summer and winter, and as healthy as any part of America, without a single exception.

The farm is of about five or six hundred acres of cleared land, very hilly, originally as rich as any highlands in the world, but much worried by Indian corn and tobacco. It is still however very strong, and remarkably friendly to wheat and rye. These will be my first object. Next will be grasses, cattle, sheep, and the introduction of potatoes for the use of the farm, instead of Indian corn, in as great a degree as possible. You will have from 12 to 15 laborers under you. They will be well clothed, and as well fed as your management of the farm will enable us, for it is chiefly with a view to place them on the comfortable footing of the laborers of other countries that I come into another country to seek an overlooker for them, as also to have my lands a little more taken care. For these purposes I have long banished tobacco, and wish to do the same by Indian corn in a great degree. The house wherein you will live will be about half a mile from my own. You will, of course, keep bachelor's house. It is usual with us to give a fixed allowance of pork; I shall much rather substitute beef and mutton, as I consider pork to be as destructive an article in a farm as Indian corn. On this head we shall not disagree, and as I shall pass Elkton in March, I will contrive to give you notice to meet me there, when we may descend to other details. But for the present I shall wish to receive your answer in writing, that I may know whether you consider yourself as engaged, so that I need not look out for another. I

leave you free as to the time of going, from harvest till Christmas. If you will get yourself conveyed as far as Fredericksburg, which is as far as the stages go on that road, I will find means of conveying you from thence, which will be 70 miles. So far respects the farm over which I wish to place you.

Besides this I have on the opposite side of the little river running through my lands, 2000 acres of lands of the same quality, and which has been cultivated in the same way, which I wish to tenant out at a quarter of a dollar an acre, in farms of such sizes as the tenants would choose. I would hire the laborers now employed on them from year to year to the same tenants, at about 50 dollars for a man and his wife, the tenant feeding and clothing them and paying their taxes and those of the land, which are very trifling. The lands to be leased for seven years or more, the laborers only from year to year, to begin next November. I would like the farms to be not less than 200 acres, because such a farmer would probably like to hire a man and his wife as laborers. I have mentioned these circumstances to you, because I have understood that tenants might probably be got from Maryland, and perhaps it would be agreeable to you to engage some of your acquaintances to go and settle so near where you will be. Perhaps you could inform me in what other part of Maryland or the neighboring States tenants might be more probably found, and I should willingly incur the expense of having them sought for. Your

assistance in this would particularly oblige me. I would ease the rent of the first year, that the tenant might get himself under way with as few difficulties as possible, but I should propose restrictions against cultivating too great a quantity of Indian corn.

In expectation of hearing from you immediately I am, Sir, your humble servant.

P. S. There is a market for wheat, rye, etc., in two little towns on each side of my lands, neither more than two miles and a half distant.

TO MARTHA JEFFERSON RANDOLPH.

PHILADELPHIA, December 31, 1792.

MY DEAR MARTHA,—I received three days ago Mr. Randolph's letter of the 14th from Richmond, and received it with great joy, as it informed me of the re-establishment of dear Anne's health. I apprehend from an expression in his letter that some of mine may have miscarried. I have never failed to write every Thursday or Friday. Perceiving by the Richmond paper that the Western post now leaves that place on Monday, I change my day of writing also to Sunday or Monday. One of the Indian chiefs now here, whom you may remember to have seen at Monticello a day or two before Tarleton drove us off, remembers you and enquired after you. He is of the Pioria nation; perhaps you may recollect that he gave our name to an infant son he

then had with him, and who, he now tells me, is a fine lad. Blanchard is arrived here and is to ascend in his balloon within a few days.[1] The affairs of France are going on well. Tell Mr. Randolph that I write him a letter by this post in answer to the application to rent Elkhall, but under the possibility that the sale of it may be completed, I inclose his letter to Mr. Hylton with a desire that he will return it to me if the place is sold, otherwise to forward it to Mr Randolph. My best esteem to him and our friends with you. Adieu, my dear. Yours affectionately,

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TO JOHN TAYLOR.[1]

MONTICELLO, December 29, 1794.

DEAR SIR,—I have long owed you a letter, for which my conscience would not have let me rest in quiet but on the consideration that the payment would not be worth your acceptance. The debt is not merely for a letter the common traffic of every day, but for valuable ideas, which instructed me, which I have adopted, and am acting on them. I am sensible of the truth of your observations that the atmosphere is the great storehouse of matter for

[1] François Blanchard, the famous aeronaut, was born in France in 1738, and died there March 7, 1809. In 1785 he made his remarkable voyage in a balloon across the British Channel with Dr. Jeffries, of Boston. For this successful undertaking Blanchard was rewarded by Louis XVI. He made numerous ascensions in Europe and on this side of the Atlantic. See Nouvelle Biographie Générale, tome vi. pp. 188, 189.—EDS.

recruiting our lands, that though efficacious, it is slow in its operation, and we must therefore give them time instead of the loads of quicker manure given in other countries, that for this purpose we must avail ourselves of the great quantities of land we possess in proportion to our labor, and that while putting them to nurse with the atmosphere, we must protect them from the bite and tread of animals, which are nearly a counterpoise for the benefits of the atmosphere. As good things, as well as evil, go in a train, this relieves us from the labor and expense of cross fences, now very sensibly felt on account of the scarcity and distance of timber. I am accordingly now engaged in applying my cross fences to the repair of the outer ones and substituting rows of peach trees to preserve the boundaries of the fields. And though I observe your strictures on rotations of crops, yet it appears that in this I differ from you only in words. You keep half your lands in culture, the other half at nurse; so I propose to do. Your scheme indeed requires only four years and mine six; but the proportion of labor and

[1] John Taylor, an eminent statesman and agriculturist, was born in Orange County, Virginia, in 1750, and graduated at William and Mary College in 1770. He became a planter, and was greatly interested in the improvement of agriculture. In 1797 he was one of the Presidential Electors, and in the following year he moved in the Virginia House of Deputies the famous resolutions of 1798. He died in Caroline County, Virginia, August 20, 1824. (See Appleton's Cyclopædia of American Biography, vol. vi. p. 45.) This letter is printed from the original in the collection of autographs given to the Mass. Hist. Society by Mr. and Mrs. A. C. Washburn.—Eds.

rest is the same. My years of rest, however, are employed, two of them in producing clover, yours in volunteer herbage. But I still understand it to be your opinion that clover is best where lands will produce them. Indeed I think that the important improvement for which the world is indebted to Young is the substitution of clover crops instead of unproductive fallows; and the demonstration that lands are more enriched by clover than by volunteer herbage or fallows; and the clover crops are highly valuable. That our red lands which are still in tolerable heart will produce fine clover I know from the experience of the last year; and indeed that of my neighbors had established the fact. And from observations on accidental plants in the fields which have been considerably harrassed with corn, I believe that even these will produce clover fit for soiling of animals green. I think, therefore, I can count on the success of that improver. My third year of rest will be devoted to cowpenning, and to a trial of the buckwheat dressing. A further progress in surveying my open arable lands has shewn me that I can have seven fields in each of my farms where I expected only six; consequently that I can add more to the portion of rest and ameliorating crops. I have doubted on a question on which I am sure you can advise me well, whether I had better give this newly acquired year as an addition to the continuance of my clover, or throw it with some improving crop between two of my crops of grain, as for in-

stance between my corn and rye. I strongly incline to the latter, because I am not satisfied that one cleansing crop in seven years will be sufficient; and indeed I think it important to separate my exhausting crops by alternations of ameliorators. With this view I think to try an experiment of what Judge Parker informs me he practises. That is, to turn in my wheat stubble the instant the grain is off, and sow turnips to be fed out by the sheep. But whether this will answer in our fields which are harrassed, I do not know. We have been in the habit of sowing only our freshest lands in turnips, hence a presumption that wearied lands will not bring them. But Young's making turnips to be fed on by sheep the basis of his improvement of poor lands, affords evidence that though they may not bring great crops, they will bring them in a sufficient degree to improve the lands. I will try that experiment, however, this year, as well as the one of buckwheat. I have also attended to another improver mentioned by you, the winter vetch, and have taken measures to get the seed of it from England, as also of the Siberian vetch which Millar greatly commends, and being a biennial might perhaps take the place of clover in lands which do not suit that. The winter vetch I suspect may be advantageously thrown in between crops, as it gives a choice to use it as green feed in the spring if fodder be run short, or to turn it in as a green-dressing. My rotation, with these amendments, is as follows:—

1. Wheat, followed the same year by turnips, to be fed on by the sheep.

2. Corn and potatoes mixed, and in autumn the vetch to be used as fodder in the spring if wanted, or to be turned in as a dressing.

3. Peas or potatoes, or both according to the quality of the field.

4. Rye and clover sown on it in the spring. Wheat may be substituted here for rye, when it shall be found that the second, third, fifth, and sixth fields will subsist the farm.

5. Clover.

6. Clover, and in autumn turn it in and sow the vetch.

7. Turn in the vetch in the spring, then sow buckwheat and turn that in, having hurdled off the poorest spots for cowpenning. In autumn sow wheat to begin the circle again.

I am for throwing the whole force of my husbandry on the wheat-field, because it is the only one which is to go to market to produce money. Perhaps the clover may bring in something in the form of stock. The other fields are merely for the consumption of the farm. Melilot, mentioned by you, I never heard of. The horse bean I tried this last year. It turned out nothing. The President has tried it without success. An old English farmer of the name of Spuryear, settled in Delaware, has tried it there with good success; but he told me it would not do without being well shaded,

and I think he planted it among his corn for that reason. But he acknowledged our pea was as good an ameliorater and a more valuable pulse, as being food for man as well as horse. The succory is what Young calls Chicoria Intubus. He sent some seed to the President, who gave me some, and I gave it to my neighbors to keep up till I should come home. One of them has cultivated it with great success, is very fond of it, and gave me some seed which I sowed last spring. Though the summer was favorable it came on slowly at first, but by autumn became large and strong. It did not seed that year, but will the next, and you shall be furnished with seed. I suspect it requires rich ground, and then produces a heavy crop for green feed for horses and cattle. I had poor success with my potatoes last year, not having made more than 60 or 70 bushels to the acre. But my neighbors having made good crops, I am not disheartened. The first step towards the recovery of our lands is to find substitutes for corn and bacon. I count on potatoes, clover, and sheep. The two former to feed every animal on the farm except my negroes, and the latter to feed them, diversified with rations of salted fish and molasses, both of them wholesome, agreeable, and cheap articles of food.

For pasture I rely on the forests by day, and soiling the evening. Why could we not have a moveable airy cow house, to be set up in the middle of the field which is to be dunged, and soil our cattle

in that through the summer as well as winter, keeping them constantly up and well littered? This with me, would be in the clover field of the first year, because during the second year it would be rotting, and would be spread on it in fallow the beginning of the third, but such an effort would be far above the present tyro state of my farming. The grosser barbarisms in culture which I have to encounter are more than enough for all my attentions at present. The dung-yard must be my last effort but one. The last would be irrigation. It might be thought at first view, that the interposition of these ameliorations or dressings between my crops will be too laborious, but observe that the turnips and two dressings of vetch do not cost a single ploughing. The turning the wheat-stubble for the turnips is the fallow for the corn of the succeeding year. The first sowing of vetches is on the corn (as is now practised for wheat), and the turning it in is the flush-ploughing for the crop of potatoes and peas. The second sowing of the vetch is on the wheat fallow, and the turning it in is the ploughing necessary for sowing the buckwheat. These three ameliorations, then, will cost but a harrowing each. On the subject of the drilled husbandry, I think experience has established its preference for some plants, as the turnip, pea, bean, cabbage, corn, etc., and that of the broadcast for other plants as all the bread grains and grasses, except perhaps lucerne and Saint foin in soils and climates very productive

of weeds. In dry soils and climates the broadcast is better for lucerne and Saint foin, as all the south of France can testify.

I have imagined and executed a mould-board which may be mathematically demonstrated to be perfect, as far as perfection depends on mathematical principles, and one great circumstance in its favor is that it may be made by the most bungling carpenter, and cannot possibly vary a hair's breadth in its form, by but gross negligence. You have seen the musical instrument called a sticcado. Suppose all its sticks of equal length, hold the fore-end horizontally on the floor to receive the turf which presents itself horizontally, and with the right hand twist the hind-end to the perpendicular, or rather as much beyond the perpendicular as will be necessary to cast over the turf completely. This gives an idea (though not absolutely exact) of my mould-board. It is on the principle of two wedges combined at right angles, the first in the direct line of the furrow to raise the turf gradually, the other across the furrow to turn it over gradually. For both these purposes the wedge is the instrument of the least resistance. I will make a model of the mould-board and lodge it with Colonel Harvie in Richmond for you. This brings me to my thanks for the drill plough lodged with him for me, which I now expect every hour to receive, and the price of which I have deposited in his hands to be called for when you please. A good instrument of this kind

is almost the greatest desideratum in husbandry. I am anxious to conjecture beforehand what may be expected from the sowing turnips in jaded ground, how much from the acre, and how large they will be? Will your experience enable you to give me a probable conjecture? Also what is the produce of potatoes and what of peas in the same kind of ground? It must now have been several pages since you began to cry out "mercy." In mercy then I will here finish with my affectionate remembrance to my old friend Mr. Pendleton, and respects to your fireside, and to yourself assurances of the sincere esteem of dear Sir, your friend and servant.

TO THOMAS MANN RANDOLPH.

MONTICELLO, November 28, 1796.

It is so cold that the freezing of the ink on the point of my pen renders it difficult to write. We have had the thermometer at 12°. My works are arrested in a state entirely unfinished, and I fear we shall not be able to resume them. Clarke has sold our wheat in Bedford for 8s. 6d. and the rise to the first of June, with some other modifications. It appears to be a good sale. He preferred it to 10s. 6d. certain, which was offered him. I think he was right as there is little appearance of any intermission of the war.

I thank you for your letter of news, and am glad

to see the republican pre-eminence in our assembly. The paper you inclosed me presents a result entirely questionable, according to my own ideas of the subject. The preponderance of the McKean interest in the western counties of Pennsylvania is by no means so great as is there supposed. You will believe the true dispositions of my mind on that subject. It is not the less true, however, that I do sincerely wish to be the second on that vote rather than the first. The considerations which induce this preference are solid, whether viewed with relation to interest, happiness or reputation Ambition is long since dead in my mind. Yet even a well-weighed ambition would take the same side. My new threshing machine will be tried this week. P. Carr is on the point of marriage. All are well here, and join in the hope of your continuing so. Adieu.

TO JOHN TAYLOR.[1]

MONTICELLO, October 8, 1797.

We have much here of an improvement made in the Scotch threshing machine by Mr. Martin, and that you have seen and approved it.[2] Being myself well acquainted with the original *geared* machine and Booker's substitution of *whirls* and *bands* (as I

[1] Printed from the original in the Washburn Collection of Autographs given to the Society.—EDS.

[2] See the letter from Jefferson to Taylor, June 4, 1798.—EDS.

have one of each kind), it will perhaps give you but a little trouble to give me so much of an explanation as will be necessary to make me understand Martin's, and let it apply, if you please, to the movements by horses or by hand. I must ask the favor of you to get me one of the same drills you sent me before, made in the best manner, with a complete set of bands and buckets, and packed in a box, in pieces, in the most compact manner the workman can do it, and forwarded to me at Philadelphia as soon after the meeting of Congress as possible. It is for a friend, and to go still further, which renders this mode of packing necessary. For the amount when you will make it known, I will either enclose you a bank bill from Philadelphia, or send it you in fine tea or anything else you please to order. How did your turnip seed answer? I have received from England, and also from Italy some seed of the winter vetch, a plant from which I expect a good deal. If it answers I will send you of the seed. I have also received all the good kinds of field pea from England, but I count a great deal more on our southern cow-pea. If you wish any of them, I will send you a part.

I have not yet seen Hamilton's pamphlet;[1] but I understand that finding the strait between Scylla

[1] The pamphlet referred to is the well-known "Observations on Certain Documents contained in No. v. and vi. of 'The History of the United States for the Year 1796,' in which the charge of speculation against Alexander Hamilton, late Secretary of the Treasury, is fully refuted. Written by Himself."—Eds.

and Charybdis too narrow for his steerage, he has preferred running plump on one of them. In truth, it seems to work very hard with him; and his willingness to plead guilty as to the adultery seems rather to have strengthened than weakened the suspicions that he was in truth guilty of the speculations. Present me respectfully and affectionately to my old friend and file-leader, Mr. Pendleton, and accept yourself my friendly salutations and adieux.

P. S. Your answer by the first or second post will find me here.

TO EDMUND PENDLETON.[1]

PHILADELPHIA, January 14, 1798.

DEAR SIR,—I received some time ago from Mr. Edmund Randolph a note signed by Mr. Lyons and yourself, undertaking to pay the amount of a decree of Royle's administrators v. yourselves as administrators of Robinson to Mr. Short or myself as his attorney. This undertaking is perfectly satisfactory, and I only wait your pleasure to be signified as to the time when and place where it may suit you to make the payment. As it was to depend on the sale of the stock I should suppose this the best market, but of this you will judge.

We receive this day through the public papers news by the way of Norfolk of some stern interrog-

[1] Printed from the original in the Washburn Collection of Autographs given to the Massachusetts Historical Society.—EDS.

atories put to our envoys by the French Directory. They look so like truth that they cannot fail to make an impression. We are willing to hope that France will not push her resentments to a declaration of war, but we have not entire confidence in the moderation of certain people among ourselves. On the whole our situation is truly perilous. Congress is at present lying on its oars. There is nothing of the least importance to be taken up. They will begin to-morrow to talk about Blount and Mr. Liston. This may fill up some hours as well as lounging, and furnish something for the blank pages of their journals; but unless our envoys furnish us something to do, I do not see how we can contrive even the semblance of business through February.

I avail myself with great pleasure of this opportunity of recalling our ancient recollections; and it has been with great satisfaction that I have heard

[1] William Blount, lately Governor of the Territory south of the Ohio, and a senator from Tennessee, was charged with having been engaged in a conspiracy for transferring New Orleans and the neighboring districts from the Spanish to the British. Upon information, furnished in part by Robert Liston, the British envoy to the United States from 1796 to 1802, which had been laid before Congress, the House of Representatives voted in July, 1797, to impeach him. Two days later, after hearing counsel, the Senate voted to expel him. This did not, however, end the matter, and in January, 1798, it was again brought before the House of Representatives, which proceeded to elect managers. It was not finally disposed of by the Senate until the end of that year. Blount died shortly afterward. See Hildreth's History of the United States, vol. v. pp. 88, 89, 187, 281, 282; Annals of Congress, 5th Congress, vols. i.–iii. *passim;* also the copy of a letter from Timothy Pickering to Rufus King, in the Pickering Papers, belonging to the Massachusetts Historical Society, vol. xxxvii. leaves 196, 197.—Eds.

from time to time of the great portion of health you have enjoyed and still enjoy. That it may continue through all the years you wish is the prayer of, my dear Sir, your affectionate friend and servant.

TO JOHN TAYLOR.[1]

PHILADELPHIA, June 4, 1798.

I now enclose you Mr. Martin's patent.[2] A patent had actually been made out on the first description, and how to get this suppressed and another made for a second invention, without a second fee, was the difficulty. I practised a little art in a case where honesty was really on our side, and nothing against us but the rigorous letter of the law, and having obtained the first specification and got the second put in its place, a second patent has been formed, which I now inclose with the first specification.

I promised you, long ago, a description of a mould-board. I now send it; it is a press copy and therefore dim. It will be less so by putting a sheet of white paper behind the one you are reading. I would recommend to you first to have a model made of about 3 inches to the foot, or $\frac{1}{4}$ the real dimensions, and to have two blocks, the first

[1] Printed from the original in the Washburn Collection of Autographs given to the Massachusetts Historical Society.—EDS.

[2] A patent for a "wheat-thrashing machine" was issued to T. C. Martin, June 2, 1798. His residence is not given in the Index to the United States Patents.—EDS.

of which, after taking out the pyramidal piece and sawing it crosswise and below, should be preserved in that form to instruct workmen in making the large and real one. The second block may be carried through all the operations, so as to present the form of the mould-board complete. If I had an opportunity of sending you a model I would do it. It has been greatly approved here, as it has been before by some very good judges at my house, where I have used it for five years with entire approbation.

Mr. New showed me your letter on the subject of the patent, which gave me an opportunity of observing what you said as to the effect with you of public proceedings, and that it was not unusual now to estimate the separate mass of Virginia and North Carolina with a view to their separate existence. It is true that we are completely under the saddle of Massachusetts and Connecticut, and that they ride us very hard, cruelly insulting our feelings as well as exhausting our strength and substance. Their natural friends, the three other eastern States, join them from a sort of family pride, and they have the art to divide certain other parts of the Union so as to make use of them to govern the whole. This is not new. It is the old practice of despots to use a part of the people to keep the rest in order, and those who have once got an ascendency and possessed themselves of all the resources of the nation, their

revenues and offices, have immense means for retaining their advantages. But our present situation is not a natural one. The body of our countrymen is substantially republican through every part of the Union. It was the irresistible influence and popularity of General Washington, played off by the cunning of Hamilton, which turned the government over to anti-republican hands, or turned the republican members, chosen by the people, into anti-republicans. He delivered it over to his successor in this state, and very untoward events, since improved with great artifice, have produced on the public mind the impression we see; but still, I repeat it, this is not the natural state. Time alone would bring round an order of things more correspondent to the sentiments of our constituents; but are there not events impending which will do it within a few months? The invasion of England, the public and authentic avowal of sentiments hostile to the leading principles of our Constitution, the prospect of a war in which we shall stand alone, land-tax, stamp-tax, increase of public debt, etc., Be this as it may, in every free and deliberating society there must, from the nature of man, be opposite parties and violent dissensions and discords; and one of these, for the most part, must prevail over the other for a longer or shorter time. Perhaps this party division is necessary to induce each to watch and delate to the people

the proceedings of the other. But if on a temporary superiority of the one party, the other is to resort to a scission of the Union, no federal government can ever exist. If to rid ourselves of the present rule of Massachusetts and Connecticut we break the Union, will the evil stop there? Suppose the New England States alone cut off, will our natures be changed? are we not men still to the south of that, and with all the passion of men? Immediately we shall see a Pennsylvania and a Virginia party arise in the residuary confederacy, and the public mind will be distracted with the same party spirit. What a game, too, will the one party have in their hands by eternally threatening the other that unless they do so and so, they will join their Northern neighbors. If we reduce our Union to Virginia and North Carolina, immediately the conflict will be established between the representatives of these two States, and they will end by breaking into their simple units. Seeing, therefore, that an association of men who will not quarrel with one another is a thing which never yet existed, from the greatest confederacy of nations down to a town meeting or a vestry, seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose than to see our bickerings transferred to others. They are circumscribed within such narrow limits, and their population so full, that their numbers will ever be the minority, and they are marked,

like the Jews, with such a peculiarity of charater as to constitute from that circumstance the natural division of our parties. A little patience, and we shall see the reign of witches pass over, their spells dissolve, and the people, recovering their true sight, restore their government to its true principles. It is true that in the meantime we are suffering deeply in spirit, and incurring the horrors of a war and long oppressions of enormous public debt. But who can say what would be the evils of a scission, and when and where they would end. Better keep together as we are, haul off from Europe as soon as we can, and from all attachments to any portions of it. And if we feel their power just sufficiently to hoop us together, it will be the happiest situation in which we can exist. If the game runs sometimes against us at home we must have patience till luck turns, and then we shall have an opportunity of winning back the *principles* we have lost, for this is a game where principles are the stake. Better luck, therefore, to us all; and health, happiness, and friendly salutations to yourself. Adieu.

P. S. It is hardly necessary to caution you to let nothing of mine get before the public. A single sentence, got hold of by the Porcupines, will suffice to abuse and persecute me in their papers for months.

TO THOMAS MANN RANDOLPH.

PHILADELPHIA, January 17, 1799.

I wrote to my dear Martha Dec. 27, and to yourself Jan. 3. I am afraid my nailery will stop from the want of rod. Three tons were sent from hence Dec. 11. The vessel was blown off the capes and deserted by the crew. She has been taken up at sea and carried into Albemarle Sound. We are in hopes, however, of getting off another supply from here immediately as the river bids fair to open. The shutting of the river has prevented any tobacco coming here as yet; so nothing is known about price. At New York the new tobacco is thirteen dollars. Georgia has sent a much larger quantiy there than had been expected, and of such a quality as to place it next to the Virginia. It is at eleven dollars while the tobacco of the Carolinas and Maryland are but ten dollars. I suspect that the price will be at its maximum this year. Whether that will be more than thirteen dollrs I do not know, but I think it will. When this city comes into the market, it must greatly increase the demand. We know too that immense sums of cash are gone and going on to Virginia, such as were never before heard of. Every stage is loaded. Some pretend here it is merely to pay for last year's tobacco, but we know that that was in a considerable degree paid for; and I have no doubt that a great part of this money is to purchase the new crop. If I were

offered thirteen dollars in Richmond, perhaps I should take it, for the sake of securing certain objects, but my judgment would condemn it. Wheat here is 1.75. Dr. Bache sets out for our neighborhood next month early, having concluded absolutely to settle there. He is now breaking up his house and beginning to pack. Dr. Logan tells me Dupont de Nemours is coming over, and decided to settle in our neighborhood. I always considered him as the ablest man in France. I ordered Bache's papers for you from Jan. 1.[1] The moment I can get answers from the Postmasters of Charlottesville and Milton to letters I wrote them a fortnight ago, we shall have the error of our mail corrected. It will turn out, I believe, to have taken place here by making up the mail a day too late, which occasioned a loss of a week at Fredericksburg. The bankrupt bill was yesterday rejected in the H. of R. by a majority of three. Logan's law will certainly pass.[2] Nobody mistakes the object of it. The forgery they attempted to palm on the House, of a memo-

[1] The "Aurora," which violently opposed the administration of Washington and Adams, was published by Benjamin Franklin Bache, a grandson of Dr. Franklin.—Eds.

[2] The act here referred to was passed Jan. 30, 1799, and made it a criminal offence, punishable by a fine and imprisonment, for any citizen of the United States, without the permission of his own government, to carry on any verbal or written correspondence or intercourse with any foreign government or its agents in regard to any disputes with the United States. The act was occasioned by some unauthorized communications made to the French government by Dr. George Logan, afterward a Senator of the United States from Pennsylvania. (See Appleton's Cyclopædia of American Biography, vol. iv. p. 4.)—Eds.

rial falsely pretended to have been drawn and presented by Logan, is so completely detected, as to have thrown infamy on the whole proceeding, but a majority will still go through with it. The army and navy are steadily pursued. The former, with our old troops, will make up about 14,000 men, and consequently cost annually seven millions of dollars. The navy will cost annually five and one-half millions, but as it will not be on foot, no addition to the direct tax will be made at this session, nor perhaps at the next. It is very evident from circumstances that a window tax is intended. A loan for five millions is opened at 8 per cent. The extravagance of the interest will occasion it to fill. This it is supposed will build the navy. Our taxes bring in this year ten and one half-millions clear, and the direct tax will add two millions. According to the principles settled by a (British) majority of the commissioners under the treaty, that demand will be from fifteen to twenty millions of dollars, but there is some reason to suppose our government will not yield to it. In that case they must recur to new negotiations. Notwithstanding the forgeries of London, Vienna, and Constantinople, it is believed that Bonaparte will establish himself in Egypt, and that that is, for the present at least, his ultimate object. Also that the insurrection in Ireland is in force and better organized than before. My warmest love to my dear Martha and the little ones; to yourself affectionate salutations and Adieu.

TO JOHN TAYLOR.[1]

MONTICELLO, November 26, 1799.

DEAR SIR,—Mr. Wirt, who is of my neighborhood, offers himself a candidate for the clerkship of the House of Representatives, and being known to few of the members, his friends are naturally anxious that what may be said of him with truth should be said.[2] I only fulfill a duty, therefore, when I bear testimony in this as I would in any other case. He has lived several years my near neighbor, having married the daughter of the late Dr. Gilmer. He is a person of real genius and information, one of the ablest at the bars in this part of the country, amiable and worthy in his private character, and in his republicanism most zealous and active. This information is given you in order that having equal knowledge of the other candidates you may be enabled to satisfy your own mind by choosing the best.

For some years past there has been a project on foot for making a more direct road across this State for those travelling between the North and South.

[1] Printed from the original in the Washburn Collection of Autographs given to the Massachusetts Historical Society.—EDS.

[2] William Wirt, the eminent lawyer, was born in Bladensburg, Md., Nov. 8, 1772, and died in Washington, D. C., Feb. 18, 1834. He began his legal career in Virginia, and in 1795 he was married to the daughter of Dr. George Gilmer. She died in 1799, and he removed to Richmond, and was elected Clerk of the House of Delegates. His legal knowledge, his eloquence, and his rare ability in argument placed him in the foremost rank of American lawyers. (See Appleton's Cyclopædia of American Biography, vol. vi. pp. 578, 579.)—EDS.

It is only necessary to open it in parts, as there are already roads through a great proportion of the way. It is to lead from Georgetown by Stevensburg, Norman's ford, the Raccoon ford, Martin King's ford, the mouth of Slate River, to the High bridge on Appomattox, from whence the present roads southwardly suffice. It will shorten the line across this State probably fifty miles, is calculated on the precise object of avoiding all hills, but at the crossing of the principal watercourses, and will undoubtedly be the best road for the principal mail between the North and South. This matter will be before you this session, and will be worthy your attention.

Some schismatic appearances and other political circumstances will render it necessary for us perhaps to adapt our conduct to their improvement. But I cease from this time during the ensuing twelvemonth to write political letters, knowing that a campaign of slander is now to open upon me, and believing that the postmasters will lend their inquisitorial aid to fish out any new matter of slander they can to gratify the powers that be. I hope my friends will understand and approve the motives of my silence. Health, happiness, and affectionate salutations.

TO THOMAS MANN RANDOLPH.

February 4, 1800.

Yours of Jan. 18 never reached me till this day, so that it has loitered a week somewhere. Our post going out to-morrow morning, I hasten to answer it. My anxiety to get my lands rented is extreme. I readily agree, therefore, that Mr. Kerr shall take for five years, or say till Christmas, 1804, the oblong square field, and the one on the river next below the square field, comprehending the orchard; only that I should be very urgent he should take a complete field there; for I expect there is enough between the river and the road by old Hickman's settlement to make two fields of forty acres each, by cleaning up and straightening the skirts, perhaps by cutting down some slips on the margin. For so much as would be to clear I would take no rent the first year. He would then have the three fields in a line on the river, and three other fields would remain along the road to the triangle inclusive for another tenant. Observe I must have with him, as I have with Mr. Peyton, free passage along the roads; that is to say, along the road which used to be, and must be again, down the river side. All the conditions to be the same as with Mr. Peyton. I say I wish him to be pushed to the taking the one hundred and twenty acres; yet, rather than lose a tenant, I

would agree to the hundred acres, to wit, the oblong square and half the lower field. But you are sensible he would get by that means a great overproportion of cream, and therefore I wish to force on him the other half field.

Bonaparte's operations begin to wear a somewhat better aspect. It seems as if he meant a republic of some sort; therefore we are encouraged by the strength of his head to hope he calculates correctly how much superior is the glory of establishing a republic to that of wearing a crown. But still we must suspend our judgments a little longer. My first letter from Mr. Eppes gave me a little hope of the child's doing well. One received to-day announces its death. It appears, as we might expect, a severe affliction to both.

TO THOMAS MANN RANDOLPH.

PHILADELPHIA, March 4, 1800.

DEAR SIR,—I wrote you last on the 17th of February. Since that I learn by a letter from Richmond that Martha is with her sister. My last letter from Eppington was of the 16th of Feb., when Maria was hoped to be in fair way of speedy recovery. The continuance of the non-intercourse law for another year, and the landing of our commissioners at Lisbon, have placed the opening of the French market (where at Bordeaux tobacco was

selling at twenty-five to twenty-seven dollars per cwt. Dec. 7) at such a distance that I thought it better to sell our tobacco at New York. Remsen had informed me in January that no more than six dollars could then be got for it, and it has been falling since; and Lieper offering to take it there at six dollars payable in sixty days, I struck with him; and thus ends this tragedy by which we have both lost so much. I observe Tarina advertised; how does that matter stand? There have been no new failures here or at New York, but at Baltimore very great ones weekly. We are entirely without news of the further proceedings at Paris. Bonaparte seems to be given up by almost everyone. The caucus election bill for President and Vice-President will certainly pass the Senate by the usual majority of 2 to 1; an amendment will be proposed to shew the sense of the minority. This may perhaps, however, be taken up by the other house with a better chance of success; in order to lessen the necessary loan, they put off building the 74's a year, which, with the saving by stopping enlistments, reduces the loan to three and one-half millions; but whether even that can be got at 8 per cent is very doubtful. Wheat is at $2.13 here, and is likely to be very high through the year, as Europe will want generally. I think I shall fix my price with Mr. Higginbotham at about the middle of April. I have not heard how it is at Richmond. Key's money was sent on to Richmond

Jan. 30. Yet on the 20th of Feb. (three weeks after) he seems not to have heard of it. Kiss all the little ones for me, and accept sincere and cordial salutations from yours affectionately.

TO THOMAS MANN RANDOLPH.

PHILADELPHIA, April 4, 1800.

I wrote you last on the 31st of March, since which I have received G. Jefferson's of March 22, acknowledging the receipt of the last two hundred and seventy dollars, making eighteen hundred and seventy dollars in all. Mr. Ross's Kitt, setting out for Charlottesville, where he has a cause to be tried with James Ross, and apprehending from him some personal assault, has asked me to interest some person to ensure him the protection of the laws. I have promised to write to yourself, P. Carr, and Colonel Bell, to have an eye to him, merely because he desires it, though I assured him he would be protected by every one. He furnishes me an earlier occasion of writing to you than by post.

Captain Barry, in the frigate U. S., arrived last night from Corunna. Our envoys [1] landed Nov. 27

[1] Oliver Ellsworth, William R. Davie and William Vans Murray had been appointed by Pr sident Adams envoys extraordinary to the French Republic. The two former sailed from Newport, R. I., about the first of November, 1799, in the frigate United States. The latter was then in Eu ope. See Life and Works of John Adams, vol. ix. pp. 39, 162, 251.—EDS.

at Lisbon, from whence their secretaries proceeded by land to Paris. The principals reimbarked Dec. 21 for L'Orient, but after long beating against contrary winds in the Bay of Biscay they landed at Corunna Jan. 11, and sent a courier to Paris for their passports. They proceeded to Burgos and here received their passports from Paris, with a letter from Talleyrand expressing a desire to see them at Paris, and assuring them that the form of their credentials addressed to the Directory, would be no obstacle to their negotiation. Murray was already at Paris. The letters from our envoys to the Executive, brought by Captain Barry, are dated at Burgos, Feb. 10. They would have about [*illegible*] to Paris, where they will have arrived probably about the first week in March, and by the first week of May we may expect to hear of their reception. The frigate Portsmouth is about sailing from New York to France, the object a secret. The Senate yesterday rejectd Mr. Pinckney's bill against appointing judges to any other offices; and to-day they have rejected a bill from the House of Representatives which forbade military troops to be at the place of election on any day of election. A warrant has been issued to commit Duane,[1] but he has not yet been found. The President has nominated a third Major General (Brookes of Massachusetts) to our 4000 men, and 204 promotions and appoint-

[1] William Duane, editor of the "Aurora," the principal organ of the Republicans.—Eds.

ments of officers are now before the Senate for approbation, so there will be sixteen regiments of officers and four or five of soldiers. Dupont de Nemours has been here from New York on a visit. He will settle there or at Alexandria. He promises me a visit this summer with Madame Dupont. I think we shall rise the first or second week in May. I have received the grateful news of Maria's recovery, and am to go by Eppington or Montblanco to carry her to Monticello with me. I shall by next post write to Richardson the day my horses are to meet me there, all three; and expect him to engage David Bowles to go with them. Not knowing whether Martha is yet returned home, I can only deliver my love to her provisionally, and my affectionate salutations to yourself. Adieu.

P. S. You have not informed me where your brother's newspapers are to be directed.

TO EDMUND PENDLETON.[1]

PHILADELPHIA, April 19, 1800

DEAR SIR,—My duties here require me to possess exact knowledge of parliamentary proceedings. While a student I read a good deal, and common-

[1] This letter is printed from the original in the collection of autographs given to the Massachusetts Historical Society by Mr. and Mrs. A. C. Washburn.—EDS.

placed what I read on this subject.[1] But it is now 20 years since I was a member of a parliamentary body, so that I am grown rusty. So far, indeed, as books go, my commonplace has enabled me to retrieve, but there are many minute practises, which being in daily use in Parliament, and therefore supposed known to every one, were never noticed in their books. These practices were, I dare say, the same we used to follow in Virginia, but I have forgot even our practices. Besides these, there are minute questions arising frequently as to the mode of amending, putting questions, etc., which the books do not inform us of. I have, from time to time, noted these queries, and keeping them in view have been able to get some of them satisfied, and struck them off my list, but I have a number of them still remaining unsatisfied. However unwilling to disturb your repose, I am so anxious to perform the functions of my office with exact regularity that I have determined to throw myself on your friendship and to ask your aid in solving as many of my doubts as you can. I have written them down, leaving a broad margin in which I only ask the favor of you to write yea, or nay, opposite to the proposition, which will satisfy me. Those which you do not recollect, do not give yourself any trouble about. Do it only at your leisure. If this should be before the 9th of

[1] The commonplace book here referred to is probably a small and very neatly written volume, marked on the fly-leaf "Parliamentary Note-Book," now in the possession of the Massachusetts Historical Society.—Eds.

May, your return of the papers may find me here till the 16th; if after that, be so good as to direct them to me at Monticello.

I have no foreign news but what you see in the papers. Duane and Cooper's trials come on to-day. Such a selection of jurors has been made by the marshal as ensures the event. The same may be said as to Fries, etc., and also as to the sheriff and justices, who in endeavoring to arrest Sweeny, the horse thief, got possession of his papers, and sent them to the Chief Justice and the Governor, among which papers were Mr. Liston's letter to the Governor of Canada, printed we know not by whom. We have not yet heard the fate of Holt, editor of the Bee, in Connecticut. A printer in Vermont is prosecuted for reprinting Mr. McHenry's letter to General Darke. Be so good as to present my respects to Mrs. Pendleton, and friendly salutations to Mr. Taylor, and accept yourself assurances of constant and affectionate esteem.

TO THOMAS MANN RANDOLPH.

PHILADELPHIA, May 7, 1800.

Yours of April 26 came to hand the 2d inst. We have received information, not absolutely to be relied on, that our envoys are arrived at Paris and were received with peculiar favor. I have seen a letter from a person there of the best information,

dated in January, that the dispositions of the present government were so favorable that a *carte blanche* would be given to our envoys and that it would not be in their power to avoid a settlement. The New York city election has resulted in favor of the republican ticket. I inclose you a state of it. This is considered by both parties as deciding the legislative majority in that State, without taking into account what we shall gain in the country elections. The Federalists do not conceal their despair on this event. They held a caucus on Saturday night, and have determined on some hocus-pocus manœuvres by running General Charles C. Pinckney with Mr. Adams to draw off South Carolina, and to make impression on North Carolina. We still count on rising on the 12th; perhaps we may be a day or two later, though it is generally expected otherwise. I shall not set out till the day, or day after, we rise.

You were not mistaken in your first idea that your tobacco was nearly sufficient for the payment to George Jefferson. I paid him 1870 dollars. Your Philadelphia tobacco came to 1537.325 and the New York supposed about 280 dollars. This, when it all comes in, will consequently be within a few dollars of what I paid; and as to the delay, I have apologized for that to those for whom my money was destined. A little before I left Monticello I attempted a statement of our account. But we had let it run so long that it called for more time than I

had left. I therefore brought on the materials here, and have stated it except as to one or two articles which need enquiry. I do not believe there will be a balance of 10 dollars either way, including every thing I know of to the present moment. The money, therefore, in Mr. Jefferson's hands, which you destined for me, is free for other purposes. I sincerely wish I were able to aid you in the embarrassments you speak of. But though I have been wiping out Mr. Wayles's old scores it has been impossible to me to avoid some new ones. The profits of my Bedford estate have gone for this purpose, and the unprofitable state of Albemarle has kept me in a constant struggle. There is a possible sale which might enable me to aid you, and nothing could be so pleasing to me, but it is only possible. I would wish you, however, to avoid selling anything as long as you can, to give time for this possibility. These things, however, will be better explained in conversation. Present my constant love to my dear Martha and the little ones, and accept assurances of the most affectionate attachment to yourself. Adieu.

TO THOMAS MANN RANDOLPH.

WASHINGTON, Sunday, Nov. 30, 1800.

Davy will set out in the morning on his return with the horses. I will endeavor before he goes to get one of Hamilton's pamphlets for you, which

are to be sold here. Bishop's pamphlet on political delusions has not yet reached the bookstores here.[1] It is making wonderful progress, and is said to be the best anti-republican eye-water which has ever yet appeared. A great impression of them is making at Philadelphia to be forwarded here. From abroad we have no news. At home, the election is the theme of all conversation. Setting aside Pennsylvania, Rhode Island, and South Carolina, the Federal scale will have from the other States 53 votes and the Republicans 58. Both parties count with equal confidence on Rhode Island and South Carolina. Pennsylvania stands little chance for a vote. The majority of two in their Senate is immovable. In that case, the issue of the election hangs on South Carolina. It is believed Pinckney will get a complete vote with Mr. Adams from four of the New England States, from Jersey, Delaware and Maryland, probably also North Carolina. Congress seems conscious they have nothing [to do?]; the territorial government here and the additional judiciary system [being?] the only things which can be taken up. The Federals do not appear very strong in the House of Representatives. They divided on the address only 35 against 32. We are better accommodated here than we expected to be, and not a whisper or

[1] The reference is to Abraham Bishop's "Connecticut Republicanism: an Oration on the Extent and Power of Political Delusion, delivered in New Haven on the evening preceding the Public Commencement, September, 1800." It passed through several editions. —Eds.

thought in any mortal of attempting a removal. This evident solidity to the establishment will give a wonderful spring to buildings here the next season. My warmest affection to my ever dear Martha, kisses to the young ones, and sincere and affectionate attachment to yourself. Adieu.

P. S. Mr. Brown called on me to-day. The family is well. I forgot to mention to him that Davy could carry letters to Mr. Trist and family.

TO THOMAS MANN RANDOLPH.

WASHINGTON, December 5, 1800.

You are probably anxious to hear of the election, and indeed it is the only thing of which any thing is said here, and little known even of it. The only actual vote known to us is that of this State. Five for Adams and Pinckney and 5 for Jefferson and Burr. Those who know the Pennsylvania legislature best agree in the certainty of their having no vote. Rhode Island has carried the Federal ticket of electors by about 200 in the whole State. Putting Pennsylvania, South Carolina, and Pinckney out of view, the votes will stand 57 for Jefferson and 58 for Adams. So that South Carolina will decide between these two. As to Pinckney it is impossible to foresee how the juggle will work It is confidently said that Massachusetts will withhold seven votes from him, but little credit is due to reports where every

man's wishes are so warmly [*illegible*]. If the Federal electors of the other States go through with the caucus compact, there is little doubt that South Carolina will make him the President. Their other vote is very uncertain. This is everything known to us at present. The post which will arrive here on the 15th inst. will bring us the actual vote of South Carolina. The members here are generally well accommodated. About a dozen lodge in Georgetown from choice, there being lodgings to be had here if they preferred it. Everybody is well satisfied with the place, and not a thought indulged of ever leaving it. It is therefore solidly established, and this being now seen it will take a rapid spring. My tenderest love to my dear Martha and the young ones. Affectionate and warm attachment to yourself. Adieu.

TO THOMAS MANN RANDOLPH.

December 12, 1800.

I believe we may consider the election as now decided. Letters received from Columbia, (S. C.), this morning and dated Dec. 2, which was the day for appointing their electors, announce that the Republican ticket carried it by majorities of from 13 to 18. The characters named are firm and were to elect on the next day. It was intended that one vote should be thrown away from Colonel Burr. It is believed Georgia will withhold from him one or two. The

votes will stand probably T. J. 73, Burr about 70. Mr. Adams 65. Pinckney probably lower than that. It is fortunate that some difference will be made between the two highest candidates, because it is said that the Federals here held a caucus and came to a resolution that in the event of their being equal they would prevent an election, which they could have done by dividing the House of Representatives. My tender love to my dear Martha and the little ones. Sincere affection to yourself.

TO THOMAS MANN RANDOLPH.

WASHINGTON, January 9, 1801

DEAR SIR,—Your favor of the third came to hand yesterday. I suspect that I mistook our post day when I first arrived here and put the letters you mention into the post-office a day too late. I shall be glad if you will mention when that of the first instant gets to you as well as the present and future letters, that if there be anything wrong in the post I may get it rectified. The mail for Milton is made up here on Friday at 5 p. m. That Craven's house should not have been in readiness surprises me. I left I. Perry's people putting up the last course of shingles and the plank for the floor and loft planed, and they assured me they could finish everything in a week. They must have quit immediately. But the most extraordinary of all things is that there should have been

no clearing done. I left Monticello on Monday, the 24th Nov., from which time there were four weeks to Christmas, and the hands ordered to be with Lilly that morning (except, I think, two), and according to his calculation and mine three or four acres a week should have been cleared. But the misunderstanding between him and Richardson had before cost me as good as all the labor of the hired hands from January to June when I got home. The question now, however, is as to the remedy. You have done exactly what I would have wished, and as I place the compliance with my contract with Mr. Craven before any other object, we must take every person from the nailery able to cut and keep them at it till the clearing is completed. The following, therefore, must be so employed: Davy, John, Abram, Shepherd, Moses, Joe, Wormly, Jame Hubbard, with the one hired by Lilly, making 9. Besides these, if Barnaby, Ben, Cary, and Isabel's Davy are able to cut, as I suppose they are, let them also join; shoemaker Phill also if he can cut. I doubt it, and that he had better continue to be hired. These make thirteen or fourteen, with whom the clearing which I was to do this year ought not to be a long job. There will remain for the nailery Burwell, Jamy, Bedf. John, Bedf. Davy, Phill Hub., Lewis, Bartlet, and Brown, enough for two fires. This course I would have pursued even after Powell's arrival, as I had rather [*illegible*] his department, where the loss concerns myself only than one which affects another. I wrote

pressingly to Mr. Eppes to hire some hands for me, and am not without hopes he may have done it. If they arrive, I would still not draw off the nailers till the clearing is completed. I wrote to Lilly yesterday covering an order for some money. I had not then received your letter, so the one to him says nothing on this subject. I must, therefore, get the favor of you to deliver him the orders.

Nothing further can be said or discovered on the subject of the election. We have eight votes in the House of Representatives certain, and there are three other States, Maryland, Delaware, and Vermont, from either of which if a single individual comes over it settles the matter. But I am far from confiding that a single one will come over. Pennsylvania has shown what men are when party takes place of principle. The Jersey election has been a great event. But nothing seems to bend the spirit of our opponents. I believe they will carry their judiciary bill. As to the treaty, I must give no opinion. But it must not be imagined that any thing is too bold for them. I had expected that some respect to the palpable change in public opinion would have produced moderation, but it does not seem to. A committee reported that the Sedition Law ought to be continued, and the first question on the subject in the House has been carried by 47 against 33. We have a host of Republicans absent. Gallatin, Livingston, Nicholson, Tazewell, Cabell, *cum multis aliis*. The mercantile towns are almost

unanimous in favor of the treaty.[1] Yet it seems not to soften their friends in the Senate. I received notices from Dick Johnson to attend the taking depositions in Milton on the second Saturday in February and the second Saturday in March at Mr. Price's. I do not expect his witnesses have any thing material to say. However, if it should not be inconvenient to you to ride there at the hour of 12 and to ask any questions which may be necessary to produce the whole truth, I shall be obliged to you. My unchangeable and tenderest love to my ever dear Martha and to the little ones: affectionate attachment to yourself. Adieu.

TO THOMAS MANN RANDOLPH.

WASHINGTON, January 23, 1801.

Yours of the 17th reached this on the 21st, from Saturday to Wednesday. This will leave this place to-morrow (Saturday, the 24th), and ought to be with you on Thursday, the 29th, but it seems that a week is lost somewhere. I suspect the Fredericksburg rider leaves that place an hour or two before the Northern post reaches it. On this subject I will this day write to the Postmaster General. I am sincerely concerned for the misfortune to poor Holmes. I have not yet seen his father on the sub-

[1] The treaty which had been negotiated with France by the envoys sent out by Mr. Adams. See Life and Works of John Adams, vol. ix, pp. 241–310.—EDS.

ject, who is a clerk in the Register's office here. Lewis must continue under Mr. Dinsmore, in order to expedite that work. I will very willingly undertake to pay Gibson and Jefferson for you £135, but I must take from 40 to 70 days for it, having nothing at my disposal sooner. I am not sure of being able to do it at the first term (March 1), but possibly may. At the second (April 1), they will have the money in their own hands for my tobacco sold and payable then, but do not consider this as engaging your hands. If you can employ them more advantageously for yourself than by hiring, do it. If not, we will take any which you had rather hire than employ at what we are to pay for others. My former letter will have conveyed to you my wish that the nailers able to cut should be so employed; and I have written to Mr. Eppes that I am indifferent whether Powell comes till the first of April. I shall then be at home, and shall engage Whateley to undertake to build the new shop, out and out, on his own terms, immediately. I forgot to ask the favor of you to speak to Lilly as to the treatment of the nailers. It would destroy their value, in my estimation, to degrade them in their own eyes by the whip. This, therefore, must not be resorted to but in extremities; as they will be again under my government, I would choose they should retain the stimulus of character. After Lilly shall have completed the clearing necessary for this year for Mr. Craven, I would have him go on with what will be

wanting for him the next year, that being my most important object. The building of the negro houses should be done whenever Mr. Craven prefers it; as all the work is for him, he may arrange it. I will thank you to continue noting the day of the receipt of my letters, that I may know whether the postmaster corrects the mismanagement.

We continue as uncertain as ever as to the event of an election by the House of Representatives. Some appearances are favorable, but they may be meant to throw us off our guard. Mr. Adams is entirely for their complying with the will of the people. Hamilton the same. The mercantile or paper interest also. Still, the individuals who are to decide will decide according to their own desires. The Jersey election damps them, so does the European intelligence, but their main body is still firm and compact. My tenderest love to my dear Martha. I wrote to her the last week. Kisses to all the little ones, and affectionate attachments to yourself. Adieu.

P. S. When I come home I shall lay off the canal, if Lilly's gang can undertake it. I had directed Lilly to make a dividing fence between Craven's fields at Monticello and those I retain. The object was to give me the benefit of the latter for pasture. If I stay here, the yard will be pasture enough and may spare, or at least delay, this great and perishable work of the dividing fence. At least

it may lie for further consideration. I hope Lilly keeps the small nailers engaged so as to supply our customers in the neighborhood, so that we may not lose them during this interregnum. Mr. Higginbotham, particularly, and Mr. Kelly, should be attended to.

TO MARTHA JEFFERSON RANDOLPH.

WASHINGTON, January 26, 1801.

MY DEAR MARTHA,—I wrote to Mr. Randolph on the 9th and 10th inst., and yesterday received his letter of the 10th. It gave me great joy to learn that Lilly had got a recruit of hands from Mr. Allen, though still I would not have that prevent the taking all from the nailery who are able to cut, as I desired in mine of the 9th, as I wish Craven's ground to be got ready for him without any delay. Mr. Randolph writes me you are about to wean Cornelia; this must be right and proper. I long to be in the midst of the children, and have more pleasure in their little follies than in the wisdom of the wise. Here, too, there is such a mixture of the bad passions of the heart, that one feels themselves in an enemy's country. It is an unpleasant circumstance, if I am destined to stay here, that the great proportion of those of the place who figure are Federalists, and most of them of the violent kind. Some have been so personally bitter that they can never forgive me, though I do

them with sincerity. Perhaps in time they will get tamed. Our prospect as to the election has been alarming; as a strong disposition exists to prevent an election, and that case not being provided for by the Constitution, a dissolution of the government seemed possible. At present there is a prospect that some, though Federalists, will prefer yielding to the wishes of the people rather than have no government. If I am fixed here, it will be but three easy days' journey from you, so that I should hope you and the family could pay an annual visit here at least; which with mine to Monticello of the spring and fall, might enable us to be together four or five months of the year. On this subject, however, we may hereafter converse, lest we should be counting chickens before they are hatched. I inclose for Anne a story, too long to be got by heart but worth reading. Kiss them all for me, and keep them in mind of me. Tell Ellen I am afraid she has forgotten me. I shall probably be with you the first week in April, as I shall endeavor to be at our court for that month. Continue to love me, my dear Martha, and be assured of my unalterable and tenderest love to you. Adieu.

P. S. Hamilton is using his uttermost influence to procure my election rather than Colonel Burr's.

TO THOMAS MANN RANDOLPH.

WASHINGTON, January 29 [1801].

Yours of the 24th came to hand last night. On application to the Postmaster General it seems that I should have put my letters into the office here on the Thursday instead of Friday. This accordingly goes to the office this day, which is Thursday, and therefore ought to get to you on Thursday next. It may very likely, therefore, go with my letter of the 23d.

I am very glad, indeed, to find that Lilly has got so strong a gang, independent of yours and the nailers. With respect to yours, I wish you to do exactly what is most for your own interest, either keeping them yourself or putting any of them with mine as best suits your own convenience. I still think it will be better that such of the nailers as may be able to handle the axe should be employed with it till April, that is to say, till Powell comes. It will be useful to them morally and physically, and I have work enough of that kind with the canal and road to give them full employment. Perhaps, as the blowing to be done in the canal will be tedious, it might be worth while to keep Joe and Wormely employed on that in all good weather; if you think so, they should work separately, as I think that one hand to hold the auger and one to strike is throwing away the labor of one. There should be force enough kept in the nailery to supply our standing custom-

ers. There is another reason for employing only the weaker hands in the nailery. I do not believe there is rod to emply the whole any length of time, and none can be got to them till April. I should be glad [if] Mr. Lilly or Mr. Dinsmore would count the fagots on hand, and inform me of the quantity by return of post, as I have forgotten the state of the supplies on hand when I left home. Mr. Wilson Nicholas and myself have this day joined in ordering clover seed from New York, where it is to be had, it is said, at twelve dollars. I have ordered five bushels for you. I believe I have none to sow myself. Mr. Jefferson informs me two small casks of wine are forwarded for me to Milton. Out of this I wish to you take what I borrowed of you, and I will be thankful to you to inform me as soon as you can of the size of the casks, that I may know how to proportion the equivalent to Mr. Yznardi. It should be stored in the dining-room cellar, and that secured by double locks, as I presume it is. With respect to the election, there is no change of appearance since my last. The main body of the Federalists are determined to elect Burr or to prevent an election. We have eight States certain; they six, and two divided. There are six individuals of moderate disposition, any one of which coming over to us will make a ninth vote. I dare not trust more through the post. My tender love to my ever dear Martha and to the little ones. I believe I must ask her to give directions to Goliah

and his senile corps to prepare what they can in the garden, as it is very possible I may want it. Accept assurances of my sincere affection. Adieu.

TO THOMAS MANN RANDOLPH.

WASHINGTON, March 12, 1801.

DEAR SIR,—I mentioned to you in my letter by Mr. Nicholas that I should be able by this post to fix a day for the departure of Davy Bowles with my chair and horses, and that he should be in readiness; though it is impossible for me to say to a day when I can set out from hence, yet I expect it may be by the time you receive this. I would therefore have him set off from Monticello on Saturday the 21st inst. and come to Mr. Heron's in Culpeper, half a mile this side of Mr. Strode's, where he will arrive on Sunday the 22d, and will wait for me till I get there, which, if nothing unexpected occurs, will be on that or the next day. But circumstances might arise which might detain me longer, in which case he must wait here. It is probable Mr. Strode will press him much to go with the horses to his house, but he must be charged expressly to continue at Heron's, which is a house of entertainment. My stay at home cannot exceed a fortnight, or a very few days over that.

I am still at a great loss, Mr. Madison not having been able to come on as yet, Mr. Gallatin not agree-

ing to join us till my return,[1] and not knowing as yet where to get a Secretary of the Navy; General Smith refused, so did Mr. Langdon. I am now pressing again on General Smith, but with little hope of his acceding; in that case my distress will be very great. Hitherto appearances of reunion are very flattering, in all the States south of New England. A few removals from office will be indispensable. They will be chiefly for real malconduct, and mostly in the offices connected with the administration of justice. I shall do as little in that way as possible. This may occasion some outcry; but it must be met. One removal will give me a great deal of pain, because it will pain you [*illegible*] it would be inexcusable [in] me to make that exception. The prostitution of justice by packing of juries cannot be passed over. Embrace my dear Martha for me a thousand times, and kisses to the young ones. To yourself affectionate esteem and attachment.

TO THOMAS MANN RANDOLPH.

WASHINGTON, March 26, 1801.

I am still here, and not yet absolutely certain of the moment I can get off. I fear I shall this evening receive a fourth refusal of the Secretaryship of the

[1] James Madison was the new Secretary of State, and Albert Gallatin the new Secretary of the Treasury, but the latter did not take office immediately. See Lanman's Biographical Annals, p. 506.—EDS.

Navy. Should it take place, I have fixed on a temporary arrangement, and in any event expect to get away in the course of two or four days, so as to be with you by the time you receive this or very soon after. It is the getting the naval department under way which alone detains me. My tenderest affections to my ever dear Martha and to the little ones. Friendly attachment to yourself.

TO CATHARINE CHURCH.[1]

WASHINGTON, March 27, 1801.

I owe you a letter, my dear young friend. It is a debt I pay with pleasure, and therefore should not have so long delayed but for the importunity of others more urging and less indulgent. I thank you for your kind congratulations on the proof of public esteem lately bestowed on me. That you write in these sentiments renders them more dear to me. The post is not enviable, as it affords little exercise for social affections. There is something within us which makes us wish to have things conducted in our own way and which we generally fancy to be in patriotism. This ambition is gratified by such a position. But the heart would be happier

[1] Catharine Church was the daughter of John B. Church, of New York, an intimate friend of Alexander Hamilton, and of Angelica Schuyler, his wife, Early in 1802 she was married to Bertram P. Cruger, by whom she had a large family. (See N. Y. Genealogical and Biographical Record, vol. vi. pp. 78, 79.) Her mother had long been a friend and correspondent of Jefferson.—EDS.

enjoying the affections of a family fireside. It is more than six weeks since I heard from Maria. This is a proof of her aversion to her pen, and must be her apology for not answering your letter, which she received in due time, and resolved to answer every day for a month before I parted with her last. She continues to love you as much as ever, and would give you, as she does me, every proof of it except writing letters. She is in a fair way to be again a mother. This will prevent her meeting me at home, in a short excursion I am about making thither. Mrs. Randolph always recollects you with her former affection. She is the mother of four children, and half of another. I shall endeavor to persuade them to come and see me here sometimes, and will not be without hopes it may tempt you to take a flying trip, which, in summer, is of three days only. Present my friendly respects to Mr. and Mrs. Church, and accept yourself assurances of my constant and affectionate attachment.

TO THOMAS MANN RANDOLPH.

WASHINGTON, May 14, 1801.

I take up my pen merely because I have not written to you since my arrival here, and simply to inform you I am well. I shall be happy to hear the same from you, and hope this day's post may bring me that information, or that Fontrees's wagon will do it, which, I expect, will arrive to-morrow or next

day. We are selling off all our vessels except the 13 frigates established by law, bringing 7 of them to this place and sending out 3 to take exercise. The expense will be reduced to about half a million annually, great part of which will be paid this year by the proceeds of the sales of the others. We fear that Spain is ceding Louisiana to France, an inauspicious circumstance to us. Mr. Gallatin's arrival yesterday renders the organization of our new administration complete, and enables us to settle our system of proceeding. Mr. and Mrs. Madison and Miss Payne are lodging with us till they can get a house. Great desires are expressed here that Patsy and Maria should come on, but that I give no hopes of till autumn. My tenderest affections to Patsy and kisses to the young ones. Sincere attachment and friendly salutations to yourself.

P. S. I have engaged a capital whitesmith, who is a nailer also, to go on from Philadelphia in July.

TO THOMAS MANN RANDOLPH.

WASHINGTON, February 21, 1802.

DEAR SIR,—I am made happy by the regular accounts of the health of the inhabitants of Edgehill. Here there has been an uncommon degree of sickness, ascribed, of couse, to the mild winter, though we cannot see why. The Housc of Representatives have now been a week debating the judiciary law,

and scarcely seem to be yet on the threshold of it. I begin to apprehend a long session; however, I believe all material matters recommended in the first day's message will prevail. The majority begins to draw better together than at first. Still there are some wayward freaks which now and then disturb the operations.

I know nothing of the person from Loudon who went to take Shadwell, having never heard of him till your letter. In a letter to Mr. Craven, which he received on the day of the date of yours, I expressed a wish that he could bring some good tenant to it; and as the man happened to be with him that very day, he made an agreement with him to take all, except the yard, on Peyton's terms; but as to the yard, that remains to be arranged. I have written to him on the subject.

I forward you two newspapers presenting two versions of Hamilton's speeches. The language of insurgency is that of the party at present, even in Congress. Mr. Bayard,[1] in a speech of seven hours, talked with confidence of the possibility of resistance by arms. They expect to frighten us, but are met with perfect *sang froid*. Present my warmest affections to my ever dear Martha and the little ones, and be assured of my constant and sincere attachment.

[1] James A. Bayard of Delaware, one of the most eminent and influential Federalists in the House of Representatives. He strenuously resisted the appeal of the Judiciary Act.—Eds.

TO THOMAS MANN RANDOLPH.

WASHINGTON, December 19, 1803.

DEAR SIR,—The post of last night brings us agreeable information from New Orleans and Natchez. General Wilkinson arrived at New Orleans from Mobile Nov. 25, settled immediately with Laussat all the circumstance of the delivery, and proceeded next day to Fort Adams, where he would arrive on the 30th, and expect to meet Claiborne there ready for embarkation. On the 29th Laussat demanded possession of the Spanish officers, who instantly agreed to deliver the place on the next day (30th) at noon and every thing was arranged for that purpose. Laussat meant to garrison the forts with militia, and to appoint a person to every office civil and military to take the place of the Spanish incumbents. In all this he acted in concert with Clarke, mixing many Americans in the offices, and giving the command of the militia to a friend of Clarke's. Claiborne embarked 100 militia Dec. 1, from Natchez for Fort Adams, and set out Dec. 2 by land for the same place, expecting to fall in with and carry on to that place 80 militia more. He would find Wilkinson there with all the regulars ready for embarkation, which probably took place on the 3d or 4th, and they would arrive at New Orleans the 6th or 7th. If on the 6th, we shall hear of it Christmas night; if not till the 7th, we shall not hear it till the night of New

Year's day.[1] The Marquis of Casa Calva had ordered the barracks to be got ready to receive and accommodate our troops, and proposed to embark all his own, the moment he had delivered the place, on board an armed vessel then lying ready to receive them; so that they will be gone before the arrival of our troops. Laussat would hold the government about a week. This is for yourself and Mr. Eppes.[2] My tender love to my dear Martha and Maria, and all the young ones, and affectionate salutations to yourself and Mr. Eppes.

TO MARTHA JEFFERSON RANDOLPH.

WASHINGTON, Oct, 7, 1804.

MY DEAR MARTHA,—I arrived here this day week, having travelled through the rain of that day rather than stay in disagreeable quarters. I experienced no inconvenience from it. The Marquis Yrujo arrived two days after me, and Mr. Madison and General Dearborn got here the last night. The latter has left his family in Maine for the winter. Yrujo is said to be very ill, taken two days ago. I enclose a magazine for Jefferson, merely for the sake of the plate which may add to the collection for his room.[3] You

[1] For an account of the delivery of Louisiana to the United States, see Henry Adams's History of the United States, vol. ii. p. 256.—EDS.

[2] Maria, Jefferson's youngest surviving daughter, had married her half-cousin, John Eppes, October 13, 1797. She died April 17, 1804. —EDS.

[3] Thomas Jefferson Randolph, Jefferson's eldest grandson, was then about twelve years old.—EDS.

will see in the magazine an account of a new work by Mrs. Robinson, Mrs. Cosway, and Mrs. Watson, which must be curious.[1] A great deal of sickness has been and still exists in this place: I trust, however, that the hard frosts we had a week ago have destroyed the germ of new cases. The sickness of the summer has been so general that we may consider the exemption of our canton from it as very remarkable. Four weeks to-morrow our winter campaign opens. I dread it on account of the fatigues of the table in such a round of company, which I consider as the most serious trials I undergo. I wish much to turn it over to younger hands and to be myself but a guest at the table and free to leave it as others are; but whether this would be tolerated is uncertain. I hope Mr. Randolph, yourself, and the dear children continue well. I miss you all at all times, but especially at breakfast, dinner, and the evening, when I have been used to unbend from the labors of the day. Present me affectionately to Mr. Randolph, and my kisses to the young ones. My tender and unchangeable love to yourself. Adieu, my ever dear daughter.

[1] This may have been the "Progress of Female Virtue and of Female Dissipation," a set of aquatints, designed by Maria Cosway, and executed by Caroline Watson. See Dictionary of National Biography, vol. xii. p. 279, vol. lx. p. 10.—Eds.

TO GEORGE JEFFERSON.

WASHINGTON, June 12, 1805.

DEAR SIR,—Mr. John D. Burke of Petersburg, engaged in writing the history of Virginia has asked the use of a volume of laws and some volumes of ancient newspapers from the library at Monticello. I have desired Mr. Randolph to send them to you, and will pray you to deliver the volumes of newspapers to Mr. Burke himself; but the volume of laws being the only copy of the laws of that period now existing, and being consequently often resorted to in judiciary cases, I wish it to remain in Richmond, where others who may have occasion, as well as Mr. Burke, may have such free access as is consistent with the safe keeping of the volume. This may be in the office of any careful clerk who will undertake it for Mr. Burke, or wherever else you may think proper to deposit them. I have directed these volumes to be sent you well packed in a water-tight box, so that they may be safe from rubbing and wet, and will pray you to have them returned to me with like care when Mr. Burke is done with them. Accept affectionate salutations.

TO JAMES OGILVIE.[1]

WASHINGTON, June 23, 1806.

DEAR SIR,—As Mr. Randolph might possibly be from home and the inclosed in that case be opened by

[1] See Dictionary of National Biography, vol. xlii. p. 18. The letter here printed refers to the bitter quarrel between Thomas Mann Ran-

my daughter, I have taken the liberty of putting it under your cover with a request to put it into his own hands. The subject of it is perhaps unknown to my daughter, and may as well continue so. Its object is to induce Mr. Randolph to act with coolness and an attention to his situation in this unhappy affair between him and J. R., which the newspapers are endeavoring to revive. It is not inclination in any body, but a fear of the opinion of the world which leads men to the absurd and immoral decision of differences by duel. The greatest service, therefore, which Mr. T. M. Randolph's friends can render him is to convince him that although the world esteems courage and disapproves of the want of it, yet in a case like his, and especially where it has been before put out of doubt, the mass of mankind and particularly that thinking part whose esteem we value, would condemn in a husband and father of a numerous family everything like forwardness in this barbarous and lawless appeal. A conduct cool, candid, and merely defensive is quite as much as could be admitted by any in such a case as his; and I verily believe that if such a conduct be observed on his part, the matter may yet die away. I should be unwilling to have it known that I meddle at all in this, and therefore write to you in confidence. Accept my friendly salutations and assurances of esteem and respect.

dolph and John Randolph, of Roanoke, near the end of the first session of the ninth Congress. See Garland's Life of John Randolph, vol. i. pp. 242-351; Randall's Life of Thomas Jefferson, vol. iii. pp. 164-167.—Eds.

TO THOMAS MANN RANDOLPH.

WASHINGTON, Nov. 3, 1806.

DEAR SIR,—Yesterday was sennight I wrote to Reuben Lewis, informing him he might hourly expect his brother there. I meant the next day, which was the post day, to have written it to you also, but was in the intervening evening taken with the autumnal fever so as to be unable to write. The attack was slight and I am now perfectly recovered, and engaged in taking the repeating doses of bark.

We have no information of the progress of our negotiations either at London or Paris, and I have no hope of our learning their conclusion before the meeting of Congress. Indeed it seems as if Spain would be able to protract the latter, in spite of what either we or France can do to spur her up. We have no doubt of the death of Mr. Fox in the course of September, although none of the stories yet received are worth notice.[1] Mr. Erskine is arrived here and is to be presented to-day, and Mr. Merry will at the same time take leave.[2]

Bond, who was his mentor when formerly here, is, we are told, like a good Vicar of Bray, gone over to the new ministry.[3] In the quarter of Natchitoches

[1] Charles James Fox died of dropsy, Sept. 13, 1806.—EDS.

[2] Anthony Merry was British minister to the United States from 1803 to 1806, and was succeeded by David M. Erskine, who was here until October, 1809.—EDS.

[3] Phineas Bond, a native of Philadelphia, was British consul-general for the Middle and Southern States from 1786 to 1812 or 1813. See Report of the American Historical Association for 1896, vol. i. pp. 513–517.—EDS.

I believe every thing will remain quiet. Burr is unquestionably very actively engaged in the westward in preparations to sever that from this part of the Union. We learn that he is actually building 10 or 15 boats able to take a large gun and fit for the navigation of those waters. We give him all the attention our situation admits; as yet we have no legal proof of any overt act which the law can lay hold of. Present my tenderest affections to my dear Martha and the young ones, and accept assurances yourself of constant attachment.

TO MARTHA JEFFERSON RANDOLPH.

WASHINGTON, November 23, 1807.

MY DEAR MARTHA,—Here we are all well, and my last letters from Edgehill informed me that all were so there, except some remains of influenza hanging on yourself. I shall be happy to hear you are entirely clear of its remains. It seems to have gained strength and malignancy in its progress over the country. It has been a formidable disease in the Carolinas, but worst of all in Kentucky; fatal, however, only to old persons. Davy will set out on his return to-morrow. He will carry an earthen box of monthly strawberries, which I must put under Anne's care till spring, when we will plant them at Monticello. I have stuck several sprigs of geranium in a pot which contained a plant supposed to be orange, but not known to be so.

We have little company of strangers in town this winter. The only ladies are the wives of Messrs. Newton, Thurston, W. Alston, Marion, Mumford, Blount, Adams, Cutts, and Mrs. McCreary expected. Congress are all expectation and anxiety for the news expected by the Revenge or by Colonel Monroe, whose immediate return, however, may be doubted. The war-fever is past, and the probability against its return rather prevalent. A caucus of malcontent members has been held and an organized opposition to the government arranged, J. R. and J. C. at its head;[1] about 20 members composed it. Their object is to embarrass, avoiding *votes of opposition* beyond what they think the nation will bear. Their chief mischief will be done by letters of misrepresentations to their constituents, for in neither house, even with the assured aid of the Federalists, can they shake the good sense and honest intentions of the mass of real Republicans. But I am tired of a life of contention and of being the personal object for the hatred of every man who hates the present state of things. I long to be among you, where I know nothing but love and delight, and where instead of being chained to a writing table I could be indulged as others are with the blessings of domestic society and pursuits of my own choice. Adieu, my ever dear Martha; present me affectionately to Mr. Randolph and the family.

[1] John Randolph, of Roanoke, and Joseph Clay, one of the members from Pennsylvania. See Hildreth's History of the United States, vol. vi. pp. 64, 65.—Eds.

TO THOMAS MANN RANDOLPH.

WASHINGTON, NOV. 22, 1808.

DEAR SIR,—I inclose a letter from Jefferson to Ellen which I presume will inform the family of his health. I sent for your perusal last week a letter from Dr. Wistar, strongly urging his attendance on the chemical lectures. We had supposed, you know, that it would be best for him to confine himself, while at Philadelphia, to those branches of science for which that place has peculiar advantages, that is to say, anatomy, natural history, and botany, and even to add a course of surgery, as entirely subordinate to the others and merely as a convenient acquisition for a country gentleman. These would give him two lectures a day through the week, which I thought would be as much as he could digest. However, as Dr. Wistar placed his attendance on the chemical lectures on the footing of his having time enough, and so did Mr. Peale also, and the lectures were beginning, I consented to it if you should not object. For a scientific man in a town nothing can furnish so convenient an amusement as chemistry, because it may be pursued in his cabinet; but for a country gentleman I know no source of amusement and health equal to botany and natural history, and I should think it unfortunate for such an one to attach himself to chemistry, although the general principles of the science it is certainly well to understand.

Congress has as yet come to no resolution indica-

tive of their dispositions. But to-morrow the ground work will be laid by two resolutions: 1. That the violations of our rights by the belligerents ought not to be submitted to. 2. That all intercourse with the belligerent powers and their dependancies be suspended. This will leave the question of war or embargo uncommitted, and perhaps it will be thought best not to decide between them till near the close of the session. It is thought very doubtful how they would decide it at present, many believing there is a majority for war. This party will perhaps lose ground by time, and especially as a suggestion has been made to make another effort by offering categorically to both belligerents to elect between a repeal of their edicts and war, tightening the embargo in the mean time. This idea, however, is as yet only in embryo. My sincere affections attend on my dear Martha, yourself, and the children.

TO CHARLES L. BANKHEAD.[1]

WASHINGTON, NOV. 26, 1808.

DEAR SIR,—Your favor of the 22d is received, and that to Jefferson forwarded. I have made it the occasion of advising him to avoid the subject of politics in society, and generally indeed to shun disputa-

[1] Husband of Jefferson's eldest grandchild, Anne Cary, daughter of Thomas Mann and Martha (Jefferson) Randolph. Mrs. Bankhead was born in January, 1790, and died February 11, 1826, less than five months before the death of her grandfather.—EDS.

tion on every subject, which never did convince an antagonist, and too often alienates a friend, besides being always an uneasy thing to a good-humored society. Your letter does not tell me whether Anne and yourself are well, but I presume it because you have written, and she is about to write. I receive with great pleasure your assent to my proposition of contubernation until the population of the hive shall force a swarm, or the crowd of clients call for and afford a separate establishment. I shall be at home about the middle of April, and were it not that I must proceed on the track of my caravan, which will be on the road, I would cross at Boyd's Hole, and take you up at Port Royal, and have the pleasure of paying my respects to your father and family, and of assuring them of the happiness I shall ever have in their visits to our hive. But you must do me the favor to assure them of this, and I must pursue the caravan to keep up stragglers and prevent the season of planting from getting ahead of me.

We are all politics here. Of the three alternatives, submission and tribute is scouted by three-fourths from the heart, and by the other fourth from the teeth outwards. Of the other two, embargo and war, the first will probably prevail as yet, and the final decision between them be kept off to near the close of the session, when the season would admit of action. The odds and ends of different factions, which make up the schismatic fourth, will give their weight to whatever proposition leads to war with France and

submission to England. You will see that one of them has already proposed the former. Assure my dear Anne of my constant love, and accept yourself my most friendly salutations.

TO ANNE CARY BANKHEAD.

WASHINGTON, Dec. 8, 1808.

MY DEAR ANNE,—Your letter of Nov. 26 came safely to hand, and in it the delicious flower of the Acacia, or rather the Mimosa Nilotica, from Mr. Lomax. The mother tree of full growth which I had when I gave him the small one, perished from neglect the first winter I was from home. Does his produce seed? If it does I will thank him for some, and you to take care of them; although he will think it a vain thing at my time of life to be planting a tree of as slow a growth. In fact the Mimosa Nilotica and Orange are the only things I have ever proposed to have in my green house. I like much your choice of books for your winter's reading. Middleton's Life of Cicero is among the most valuable accounts we have of the period of which he writes; and Tacitus I consider as the first writer in the world without a single exception. His book is a compound of history and morality of which we have no other example. In your arithmetic, if you keep yourself familiar with the four elementary operations of addition, subtraction, multiplication, and division, or rather of addition and division, because this last includes subtrac-

tion and multiplication, it is as much as you will need. The rule of three, of universal utility, is a thing of mere common-sense; for if one yard of cloth costs three dollars, common-sense will tell you that twenty yards will cost twenty multiplied by three. I inclose you a letter from Jefferson, which I presume will inform you he is well. Present my respects to Mr. Bankhead, and the good family you are with; also to my ancient and intimate friend Mr. Lomax when you have the opportunity. To yourself my affectionate love.

TO THOMAS MANN RANDOLPH.

WASHINGTON, Dec. 13, 1808.

DEAR SIR,—Jefferson wrote to me a few days ago to know whether he had ever had the smallpox, and added that till he could learn that fact he kept himself from the anatomical dissections, by advice of Dr. Wistar. I wrote him that I thought I recollected that he and Anne were inoculated in Richmond under your eye, but that I was not quite certain. Will you be so good as to give the answer by return of post that he may not lose the benefit of the dissections longer than necessary. We received last night the votes of New York: 13 for Madison, as President, and Clinton, Vice-President; 6 for Clinton, President, 3 Madison, Vice-President, and 3 Monroe, Vice-President. I inclose you two extra papers with the news from Europe. The inferences drawn from this infor-

mation are that Bonaparte has settled every thing amicably in the North, that peace between Russia and Sweden will be the consequence of their armistice, and probably the exclusion of England from the Baltic, and that Bonaparte will be left to execute his murderous purposes on Spain and Portugal at his leisure.

Here every thing is still uncertain. There is a sincere wish to take off the embargo before Congress rises, prevailing with everybody but the Federalists, who (notwithstanding their clamors) it is perfectly known would deprecate it as their greatest calamity. The difficulty is how to separate the belligerents so as to have trade with one while we have war with the other; because a war with both continues the embargo in effect, with war added to it. Perhaps time may be taken till early in summer to get a repeal of edicts by one party, and Congress meet in May or June to declare war against the other. But this is conjectural. My love to my dear Martha and the young ones, and affectionate attachment to yourself.

TO THOMAS MANN RANDOLPH.

WASHINGTON, Jan. 2, 1809.

DEAR SIR,—The general mind of Congress seems now to be rallying to a certain course of proceeding. A bill will be brought in to-morrow for convening Congress about the middle of May. It will be of course that in the debate members will declare the

intention to be then to take off the embargo and if the belligerent edicts be not repealed to issue letters of marque and reprisal. This will let Europe see that our purpose is war, while not expressing it authoritatively. It will not engage their pride to persevere; at the same time it would quiet our own people by letting them see the term when the embargo is to cease. It had been thought that this would suffice to keep every thing quiet, but the monarchists of the North (who have been for some time fostering the hope of separation) have been able to make so successful use of the embargo as to have federalized the South Eastern States and to endanger New York, and they mean now to organize their opposition by the regular powers of their State governments. The Massachusetts legislature which is to meet the middle of this month, it is believed, will call a convention to consider the question of a separation of the Union, and to propose it to the whole country east of the North River, and they are assured of the protection of Great Britain. Their Republican members think that, if we will fix by law a day when the embargo shall cease (as some day in June), that this will satisfy so great a portion of their people as to remove the danger of a convention. This will probably be consented to with an addition that letters of marque and reprisal shall issue the same day. But they are apprehensive this addition may defeat the effect hoped from the repeal of the embargo. We must save the Union; but we wish to sacrifice as little as possible of

the honor of the nation. But our difficulties do not end here; for if war takes place with England, we have no security that she will not offer neutrality and commerce to New England, and that the latter will not accept it. In the mean time it is possible that England may be wrought upon, 1, by the documents published at the meeting of Congress which prove our fair conduct towards both countries, which she had affected not to believe; 2, by the determination of the Presidential election; 3, by the failure, so far, of expected insurrections in Massachusetts; 4, by the course of affairs in Spain, where there can be little doubt that Joseph is re-enthroned before this day. Parts of the country will hold out for a while, but the ultimate issue must very soon be visible. If these things have the effect they ought to have on a rational government they will prevent a war with us. The non-intercourse law will be past. This is a summary view of our present political condition.

I received yesterday a letter from Martha, enclosing the one which I now return. The request of Mr. Stith is impossible. We left to the delegates of every State to name all the officers for their State, so that there is not a single vacancy. She also desired me to return Moultrie's letter, but that has been necessarily filed in the war office. Mr. Moultrie is placed on the list of cadets at West Point, but cannot be called into service till the spring, when he will receive a call. This answer you can give him. Nothing stands in the way of Mr. Hackley but the continuance of an old

servant of the public in the place. I think it probable he will resign; I am sure he would have done it had Mr. Hackley had the prudence to cultivate his friendship. He was led astray by Meade, and now discovering Meade's views on the office, I suspect they are separated. Mr. Madison will, however, be equally ready to accept Yznardi's resignation and appoint Mr. Hackley his successor.

Accept my affectionate salutations, and convey the same to my ever dear Martha and the young ones.

P. S. A letter of Dec. 28, from Jefferson, informs me he was well.

TO CHARLES L. BANKHEAD.

WASHINGTON, Jan. 19, 1809.

DEAR SIR,—I have waited till I could execute Anne's commission as to the seed of the ice-plant, before acknowledging the receipt of her letter of Dec. 19 and yours of the 20th. I now inclose the seed, in the envelope of a pamphlet for Doctor Bankhead's acceptance. The case of Whistelo belongs to the physician, although here presented as a case of law. I do not suppose, however, it will add to his knowledge as a physician, or to yours as a lawyer, but it may amuse you both.

Although Congress has passed no bill which indicates their course, except the amendatory embargo bill, yet I think their minds are substantially made up

to meet in May with the avowed intention of then ending the embargo, and of issuing letters of marque and reprisal against the nations which shall have decrees against our rightful commerce then existing. About minor and preparatory measures there is difference of opinion, but on this none except from the Federalists, the Apostates, and two or three honest Republicans from the South, who (these last I mean) wish to try the embargo till the fall. In the mean time the disquietude in the North is extreme, and we are uncertain what extent of conflagration a spark might occasion. A line seems now to be drawing between the really republican Federalists and the English party, who are devoted, soul and body, to England and monarchy. There are circumstances which render it not entirely unexpected that England will repeal her decrees. This alone can save us from war in May. By that time, we hope, the militia or volunteers called for will be in readiness. I am now engaged in packing and breaking up my establishment here. I suppose I shall be detained to the middle of March. Mr. Lomax writes me he has given Anne a small plant of the Acacia for me, with which I hope I shall meet you both at Monticello in March. I salute you both with great affection.

TO THOMAS MANN RANDOLPH.

WASHINGTON, Jan. 31, 1809.

DEAR SIR,—I received in due time your kind letter of the 20th. Certainly I shall be much pleased to receive your aid and counsel in the management of my farms, which will become so essential. My whole life has been passed in occupations which kept me from any minute attention to them, and finds me now with only very general ideas of the theory of agriculture, without actual experience; at a time of life, too, when the memory is not so retentive of observation as at an earlier period. The tracts of land which I proposed to you to endeavor to sell are such as can be of little use to our family. I have acquired or kept them to furnish timber, but I am certain I never got an half per cent on their value in a year yet. A property yielding so little profit had better be sold and converted into more profitable form, and none can be more profitable, that is, yield so much happiness, as the payment of debts, which are an unsufferable torment. Sharp and Crenshaw, who live near Pouncey's, told me they would rather undertake to crop on that land than on the best red land you or myself possessed. If you could find a purchaser, therefore, it might be at a price that might remove some more pressing calls. Perhaps the owner of Colle would buy the tract adjoining that. They can never be put to a better use, or one so pleasing to me, as in relieving your more valuable property from calls, and

whether they go to pay your debts or mine is perfectly equal to me, as I consider our property as a common stock for our joint family.

The bill for the meeting of Congress on the 4th Monday of May is past. The resolution of Mr. Nicholas for repealing the embargo and issuing letters of marque and reprisal on a [——] day was taken up yesterday. The impatience of the people to the eastward has had a sensible effect on the minds of Congress. John Randolph moved to strike out the [——] and insert *immediately*. This was rejected. He meant an immediate removal of the embargo, and to strike out the substitute of letters of marque and reprisal. Three days have been proposed for the blank, Feb. 15, Mar. 4, and June 1. The question will be between the two last. I rather expect the 1st of June will be preferred, but it is doubtful even now, and the sentiment of the legislature is obviously advancing on account of the discontents to the eastward. On these it is difficult to pronounce an opinion. A forcible opposition to the embargo laws may be expected; perhaps it will be countenanced by their legislature declaring the law unconstitutional. It is believed they will call a convention of the Eastern States, and perhaps propose separation. The time which this will take, will defeat the measure, by the expiration of the laws which is the ostensible ground of the procedure. With the Essex Junto it is ostensible only. Separation and annexation to England is their real object.

But not so with the people, or even the real Federalists of the prominent kind. If we can avoid deeds of force on the land (in the execution of the law) the difficulty may pass over. But I do not think even that certain. I am not certain that if war be commenced against England, they will not accept neutrality and commerce if offered by England. Thus we are placed between the alternatives of abandoning our rights on the ocean, or risking a severance of the Union. My ultimate hope is in the good sense of the body of the people to the eastward who will think more dispassionately when the final question is proposed to them. My tender love to my dear Martha and the young ones, and affectionate salutations to yourself.

TO WILLIAM PINCKNEY.[1]

MONTICELLO, July 15, 1810.

DEAR SIR,—I again trouble you with letters from Mr. Bradbury to his friends in England. He is a

[1] William Pinckney, eminent both as a lawyer and statesman, was born in Annapolis, Md., March 17, 1764. His first purpose was to become a physician, but he afterward determined to adopt the law as a profession, and was admitted to the bar in 1786. Ten years later he was appointed one of the commissioners under Jay's treaty, to determine the claims of American merchants for losses occasioned by acts of the English government. He remained in England until 1804, and in the following year he was appointed Attorney-General of Maryland. In 1806 he was again sent to England to treat with the English government as joint commissioner with Mr. Monroe; and after Mr. Monroe's return he was made resident minister, which post he filled until 1811. Subsequently he was Attorney-General of the

botanist and naturalist of high qualifications and merit, and is now engaged in exploring Upper Louisiana. I feel a real interest in his pursuits, the result of which so far is communicated in some of these letters. On politics I have little to say, and little need be said to you who are better informed from another quarter. You will have seen that Massachusetts, New Hampshire, and Rhode Island have got back to the ground which a temporary delusion induced them to quit for a moment. Unfortunately it was a moment decisive of our destiny. I speak of that which produced a repeal of the embargo. Considerable discontent was certainly excited in Massachusetts, but its extent was magnified infinitely beyond its reality, and an intrigue of (I believe) not more than two or three members, reputed Republicans, excited in Congress a belief that we were under the alternative of civil war or a repeal of the embargo and the embargo was repealed. Thus were we driven by treason among ourselves from the high and wise ground we had taken, and which, had it been held, would have either restored us our free trade, or have established manufactures among us. The latter object will still be obtained, at least as to household manufacture, which is more than the half in

United States, a member of the House of Representatives, minister to Russia and special envoy to Naples, and member of the Senate from 1819 to his death at Washington, Feb. 25, 1822. (See Appleton's Cyclopædia of American Biography, vol. v. p. 26; Lanman's Biographical Annals, p. 337.) Jefferson has inadvertently written the name Pinckney.—Eds.

value of what we have heretofore received from abroad. But the imprudent adventures of our merchants have put into the hands of the robbers by sea and land, much of the capital which the embargo had secured for employment in manufactures. I am supremely happy in being withdrawn from these turmoils, but cannot but interest myself for my friends still engaged in them, and wishing you all "a good deliverance," I beg leave to add to yourself the assurances of my friendly attachment and high respect.

TO MARY PAGE.[1]

MONTICELLO, Mar. 4, 1811.

DEAR MADAM,—Your favor of Jan. 2 by some unusual course of the post was near a month before it reached this place, to which a further delay has been added by my absence of upwards of a month from home, to which I returned but two days ago. I make it among my first duties to acknowledge its receipt, to offer this apology for so late a reply, and to

[1] This lady was, perhaps, connected by marriage with the family of Gov. John Page, an early and life-long friend of Jefferson. In the letter to which this is an answer, she says her son John T. Page "is at present out of employment," and "seems to think he can act as manager over a few negroes, or perhaps as an under clerk." "He read law for a short time with General Minor." She adds: "My object is to get him in some employment immediately, and thinking your regard for his deceased father will induce you to try to get him into some business encourages me to apply to you." She wishes the answer to her application to be "directed to Mill Wood, Frederick County, Virginia."—EDS.

give you assurances of the pleasure I should receive from any act of service I could render any member of my late friend's family. His merit, and my estimation of it authorized him to count on any attentions which his friends could render to his family. To my wishes, however, of being useful, my present situation is not friendly, and the want of a more particular knowledge of Mr. J. T. Page's views, acquirements, and habits of life, render it difficult even to suggest any openings for occupation which might suit him. You mention the place of a clerk as one he would be willing to undertake. There are at Washington a great number of clerkships in the offices of the departments of the government, which offer an easy service, and salaries equal to the maintenance of a single man. I know also, however, that the vacancies in them are not frequent and the competitors numerous. The friendship of the President, I am sure would induce him to befriend your son, in case of any vacancy. Should he prefer the occupation of the law in the Western country, one of those you mention as within his view, it would certainly make him more independent and contented. His success in that would depend on himself alone and would open a prospect of bettering his situation. The army and navy offer frequent openings for appointment, in which again we might count on the friendship of the President. If any thing which either myself or my friends can do may aid him in any pursuit wherein our agency can be used, I freely tender every good office I can render

him, and avail myself with great pleasure of this occasion of renewing to you the assurances of my friendship and attachment and offering the homage of my sincere and high respect.

TO JAMES MADISON.

MONTICELLO, April 7, 1811.

DEAR SIR,—Your favors of Mar. 18 and April 1 have been duly received. The extract from Armstrong's letter of July 28, '08, which you desire is in these words: "My poor friend Warden[1] writes to you, and asks from you the appointment of consul for this place. I could not promise to do more than send his letter. He is an honest and amiable man, with as much Greek and Latin and chemistry and theology as would do for the whole corps of consuls; but, after all, not well qualified for business. You have seen an order of scavans, really well informed, who, notwithstanding, scarcely knew how to escape from a shower of rain when it happened to beset them. He is of that family. No, the man for this place ought to be a man of business, as well as a gentleman." He then goes on to put Leavenworth's pretensions out of the way, should he have proposed himself. The letter is headed "private," although relating as much to public as private transactions.

[1] David B. Warden. He had been Secretary of Legation under Armstrong, when the latter was minister to France, and was for many years consul-general at Paris.—EDS.

What I saw of Warden during the ten days or fortnight he staid here, satisfied me that he merited all the good which Armstrong says of him, and that he was by no means the helpless and ineffective man in business which he represents him to be. I knew, when I received the letter, that Armstrong's fondness for point and pith rendered it unsafe to take what he said literally. He is cynical and irritable and implacable. Whether his temper or his views induced his dismission of Warden, his persecution of him now will render public benefit by the development of his character. I have never heard a single person speak of Warden who did not rejoice in his appointment, and express disapprobation of Armstrong's conduct respecting him; and I am perfectly satisfied that, if the appointment is made to attract public attention it will be approved. The other subject of uneasiness which you express must, I know, be afflicting. You will probably see its effect in the secret workings of an insatiable family. They may sow discontent, but will neither benefit themselves nor injure you by it. The confidence of the public is too solid to be shaken by personal incidents. I do sincerely rejoice that Monroe is added to your councils. He will need only to perceive that you are without reserve towards him, to meet it with the cordiality of earlier times. He will feel himself to be again at home in our bosoms, and happy in a separation from those who led him astray. I learn that John Randolph is now open-mouthed against him and

Hay.[1] The letter which I wrote lately to Wilkinson was one of necessity written to thank him for his book which he sent me.[2] He says nothing in his letter of the anonymous letter in Clarke's book to which you allude. I have never seen Clarke's book, and know nothing of its contents.[3] The only part of my letter which regards Wilkinson himself is in these words: "I look back with commiseration on those still buffeting the storm, and sincerely wish your Argosy may ride out, unhurt, that in which it is engaged. My belief is that it will; and I found that belief on my own knowledge of Burr's transactions, on my view of your conduct in encountering them, and on the candor of your judges." These are truths which I express without reserve whenever any occasion calls for them. Whatever previous communications might have passed between Burr and Wilkinson on the subject of Mexico, I believe that on the part of the latter it was on the hypothesis of the approbation of the government. I never believed Wilkinson would give up a dependance on the govern-

[1] George Hay, United States District-Attorney for Virginia, and son-in-law of James Monroe. He had conducted the prosecution on Aaron Burr.—Eds.

[2] The letter to General Wilkinson here referred to is printed in vol. xiii. p. 23.

[3] The book referred to is an octavo volume of nearly three hundred and fifty pages, entitled, "Proofs of the Corruption of Gen. James Wilkinson, and of his Connexion with Aaron Burr, with a full Refutation of his slanderous Allegations in Relation to the character of the principal Witness against him. By Daniel Clark of the City of New Orleans." It is not mentioned in Allibone's Dictionary of Author's; but there is a copy in the library of the Mass. Hist. Society.—Eds.

ment under whom he was the first, to become a secondary and dependant on Burr. I enclose you a letter from Père Gabriel. In a Note of unfinished business which I left with you, you will see exactly how far he had a right to expect the government would go in aid of his establishment. I fear the glimmering of hope that England might return to reason has past off with the return of her mad king to power. Present me affectionately to Mrs. Madison, and be assured of my best wishes for your health and happiness, and that your labors for the public may be crowned with their love.

TO CHARLES PINCKNEY.[1]

MONTICELLO, Feb. 2, 1812.

DEAR SIR,—Your favor of Dec. 18 is duly received, and I am happy to learn from it that you are well and still active in the cause of our country. South Carolina remains firm, too, to sound principles. Of her orthodoxy I shall never doubt. You have the peculiar advantage of gathering all your aristocracy into Charleston, where alone it can be embodied, and where alone it can be felt. We are

[1] Charles Pinckney was born in Charleston, S. C., in 1758, and died there, Oct. 29, 1824. He was a member of the Convention which framed the Federal Constitution, was four times Governor of his native State, several times a member of Congress, and minister to Spain from 1801 to 1805. He strongly advocated the War of 1812 with England, and warmly opposed the Missouri Compromise. See Appleton's Cyclopædia of American Biography, vol. v. p. 23; Lanman's Biographical Annals, pp. 336, 608.—EDS.

to have war, then? I believe so, and that it is necessary. Every hope from time, patience, and the love of peace is exhausted, and war or abject submission are the only alternative left us. I am forced from my hobby, peace, until our revenue is liberated. Then we could make war without either new taxes or loans, and in peace apply the same resources to internal improvement. But they will not give us time to get into this happy state. They will force us, as they have forced France, to become a nation of soldiers, and then the more woe to them, But all this is for future history. Mine is drawing to its close. Age begins to press sensibly on me, and I leave politics to those of more vigor of body and mind. I give up newspapers for Horace and Tacitus, and withdraw my mind from contention of every kind, perfectly secure that our rulers and fellow-citizens are taking all possible care of us. They will have still many years of aid from you, and that they may be years of health, honor, and happiness is my sincere prayer.

TO E. I. DU PONT DE NEMOURS.[1]

MONTICELLO, June 16, 1812.

DEAR SIR,—On the fourth of November last I wrote to you requesting another quarter cask of

Eleuthère Irénée Du Pont, son of Pierre Samuel Du Pont de Nemours, was born in Paris, France, June 24, 1771, and died in Philadelphia, Oct. 31, 1834. After having suffered imprisonment three

powder to be forwarded to me with a note of the cost that I might remit for that and the preceding one together. Not having heard from you, I repeated my request in a letter of April 30, and at the same time desired Mr. John Barnes of Georgetown to remit you 50 dollars, which he informs me he had done. This was a mere guess at the cost of the two quarter casks, as I did not know it exactly. Being still without information on the subject, I have to request the favor of a line by post. I should not be so importunate but that the season for blowing rock in a canal I am engaged in has now commenced. I would wish to have half a dozen pounds of shooting powder, and the rest for blowing as before.

In the same letter of April 30, I mentioned that I should shear a few fleeces of genuine Merino wool and of the finest character, with about 15 of half blood; that I had understood you were connected with a manufactory of cloth at which they would receive wool to be spun, woven, and dyed for an equivalent either in the wool or cash, and I asked your information particularly on that subject, for which I will still thank you. A late letter from your father informs me of his health; but you doubt-

times during the French Revolution, he came over to the United States with his father's family in 1799; and in 1802 bought a tract of land, with water-power on the Brandywine River, near Wilmington, Delaware. Here he established the powder-works which are still carried on by his descendants. His nephew, Admiral Samuel F. Du Pont, rendered important services during the rebellion. See Appleton's Cyclopædia of American Biography, vol. ii. pp. 264–666.—Eds.

less heard from him at the same date. Accept the assurance of my great esteem and respect.

TO RICHARD RUSH.[1]

MONTICELLO, August 2, 1812.

Thomas Jefferson presents his compliments to Mr. Rush, and his thanks for the copy of his oration of the fourth of July, which he has been so kind as to send him, and for the friendly wishes he expresses for his health and happiness. To the last nothing contributes more than the contemplation of such specimens as Mr. Rush has sent him of the eloquence of his country devoted to the celebration of the birthday of our independence. Every day's history proves more and more the wisdom and salutary result of that measure, by developments of the degeneracy of the British nation, and of its rapid decline towards some awful catastrophe, from which

[1] Richard Rush was born in Philadelphia, August 29, 1780; graduated at Princeton in 1797, and was admitted to the bar in 1800. In November 1811, he was made Comptroller of the United States Treasury; and from 1814 to 1817 he was United States Attorney-General. In the latter year he was sent as minister to England, where he remained until 1825, when he was appointed Secretary of the Treasury in the administration of President John Quincy Adams. In March, 1847, he was commissioned as minister to France, and took leave in October, 1849. He died in Philadelphia, July 30, 1859. The oration here referred to was delivered in Washington, July 4, 1812. He was the author of numerous other publications, of which several have a permanent value. See Appleton's Cyclopædia of American Biography, vol. v. p. 350; Lanman's Biographical Annals, pp. 367, 596.—EDS.

their injustice and the favor of Heaven have separated us.

He salutes Mr. Rush with sentiments of high respect and esteem.

TO E. I. DU PONT DE NEMOURS.

MONTICELLO, November 8, 1812.

DEAR SIR,—It is high time I should make my acknowledgments to you for the piece of cloth of your manufacture which you were so kind as to forward to me. But this article as well as the keg of powder forwarded with it have experienced singular delay. Though sent from Wilmington early in July, they were near two months, I believe, reaching Richmond; from which place they were forwarded to me on the 18th of September, and have not yet reached me, owing to the low state of our river usual in autumn. The first good rain will, I expect, enable the boat to come up, but as I am setting out on a journey on which I shall be absent some weeks, I cannot permit myself to await their actual arrival and my return before I tender you my thanks for the cloth you have been so good as to favor me with. I am happy to know that we have established among us a manufacture from which we may expect to see the French processes, in both weaving and dyeing fine cloths, introduced among us. It is one of the articles in which they certainly excel the English. I am in hopes the Merino race

of sheep is so well established among us as to leave you in no danger of wanting that article. I have been unlucky with them. I began with one ram and three ewes. One of the ewes died of the scab, and the others for two years have brought me only ram lambs, so that I remain still with only two ewes. But I have many half bloods. There is no demand here for the wool, because we have no manufacture of fine cloth in the State. In that of coarse clothing we are going on very prosperously in our families. Scarcely a family fails to clothe itself. I salute you with great esteem and respect.

TO CHARLES W. PEALE.[1]

MONTICELLO, April 17, 1813.

DEAR SIR,—I had long owed you a letter for your favor of Aug. 19, when I received eight days ago that of Mar. 2, 1812. A slip of the pen, I suppose,

[1] Charles Wilson Peale was born in Chestertown, Maryland, April 16, 1741, and died in Philadelphia, Pa., Feb. 22, 1827. He followed at first the trade of a saddler, but while still a young man determined to be a portrait painter. In this profession he obtained a very considerable degree of success, and painted numerous portraits of Washington and the men of the Revolutionary period. He was also the founder and proprietor of the once famous Peale's Museum of Art and Natural History of Philadelphia. He was a man of great ingenuity and even greater versatility, and "took up, in turn, the making of coaches, harnesses, clocks, and watches, besides working as a silversmith, and he was also soldier, politician, naturalist, taxidermist, and dentist." Numerous letters to or from him are among the Jefferson Papers in the possession of the Massachusetts Historical Society. See Appleton's Cyclopædia of American Biography, vol. iv. pp. 689, 690.—EDS.

for 1813, and the pamphlet accompanying it strengthens the supposition. I thank you for the pamphlet.[1] It is full of good sense and wholesome advice, and I am making all my grandchildren read it, married and unmarried; and the story of farmer Jenkins will, I hope, remain in their minds through life. Both your letters are on the subject of your agricultural operations, and both prove the ardor with which you are pursuing them. But when I observe that you take an active part in the bodily labor of the farm, your zeal and age give me uneasiness for the result.

Your position that a small farm well worked and well manned will produce more than a larger one ill-tended, is undoubtedly true in a certain degree. There are extremes in this as in all other cases. The true medium may really be considered and stated as a mathematical problem: "Given the quantum of labor within our command, and land ad libitum offering its spontaneous contributions: required the proportion in which these two elements should be employed to produce a maximum." It is a difficult problem, varying probably in every country according to the relative value of land and labor. The spontaneous energies of the earth are a gift of nature, but they require the labor of man to direct their operation. And the question is so to husband his labor as to turn the greatest quantity of this

[1] "An Essay to promote Domestic Happiness," published in 1813.— Eds.

useful action of the earth to his benefit. Ploughing deep, your recipe for killing weeds, is also the recipe for almost everything good in farming. The plough is to the farmer what the wand is to the sorcerer. Its effect is really like sorcery. In the country wherein I live we have discovered a new use for it, equal in value almost to its services before known. Our country is hilly and we have been in the habit of ploughing in straight rows whether up and down hill, in oblique lines, or however they lead; and our soil was all rapidly running into the rivers. We now plough horizontally, following the curvatures of the hills and hollows, on the dead level, however crooked the lines may be. Every furrow thus acts as a reservoir to receive and retain the waters, all of which go to the benefit of the growing plant, instead of running off into the streams. In a farm horizontally and deeply ploughed, scarcely an ounce of soil is now carried off from it. In point of beauty nothing can exceed that of the waving lines and rows winding along the face of the hills and valleys. The horses draw much easier on the dead level, and it is in fact a conversion of hilly grounds into a plain. The improvement of our soil from this cause the last half dozen years strikes every one with wonder. For this improvement we are indebted to my son-in-law, Mr. Randolph, the best farmer, I believe, in the United States, and who has taught us to make more than two blades of corn to grow where only one grew before. If your farm is hilly, let me be-

seech you to make a trial of this method. To direct the plough horizontally we take a rafter level of this form . A boy of thirteen or fourteen is able to work it round the hill, a still smaller one with a little hough marking the points traced by the feet of the level. The plough follows running through these marks. The leveller having completed one level line through the field, moves with his level 30 or 40 yards up or down the hill, and runs another which is marked in like manner and traced by the plough, and having thus run what may be called guide furrows every 30 or 40 yards through the field, the ploughman runs the furrows of the intervals parallel to these. In proportion, however, as the declevity of the hill varies in different parts of the line, the guide furrows will approach or recede from each other in different parts, and the parallel furrows will at length touch in one part when far asunder in others, leaving unploughed gores between them. These gores we plough separately. They occasion short rows and turnings which are a little inconvenient, but not materially so. I pray you to try this recipe for hilly grounds. You will say with me, "Probatum est," and I shall have the happiness of being of some use to you, and through your example to your neighbors, and of adding something solid to the assurances of my great esteem and respect.

TO WILLIAM SHORT.

MONTICELLO, August 20, 1814.

DEAR SIR,—Since my short letter by Mr. Rives I have to acknowledge the receipt of your two favors of June 9 and July 30. A few days before the last came to hand I had written to Colonel Monroe, and prayed him to name a day in the autumn (when the fall of the leaves shall have rendered a survey in the woods practicable), and to procure an engagement from Champe Carter to attend and let us have a surveyor and arbitrators on the spot to settle the questioned boundary. I delayed answering your last letter in the hope that he might in the instant of receiving my letter write to me off-hand. Having failed to do this, the time of his answering is too indefinite to postpone further the giving you the present state and prospect of the business which you desire.

The state of the case is this: John Carter, eldest son of the family, sold to Monroe, bounding him "on the South by a run on the Eastern side of Dick's plantation, and running thence to the source of the said run," but no line was actually marked or examined by either party. It is said that John Carter had no right to sell, but that Champe, from family considerations, concluded to acquiesce. I do not know that this fact is true, having it only from neighborhood report. Champe afterwards sold to you, and attended us in surveying and marking the line.

Ascending the run far above Dick's plantation, it forked, each run being equally large, and extending nearly to the top of the mountain, but the southern branch something the nearest. We knew nothing of the line specified in Monroe's deed, but Mr. Carter, professing to know it and to lead the surveyor, started from the fork and run a straight line between the two branches to the top of the mountain, thus dividing the interval which the two branches rendered doubtful; but not a word of any doubt was then expressed; I presumed he knew what was right and was doing it. Colonel Monroe, sometime after his return from Europe, mentioned to me in conversation that the line as run between you and him by Mr. Carter, was, as he had been informed, questionable, but he could not then explain to me how; nor did I ever learn how till after the sale to Higgenbotham. Indeed from the continued silence on the subject I believed the claim dropped till I received a line from Higginbotham informing me Mr. Hay had notified him of it, and Colonel Monroe soon afterwards called on me, showed his deed, and explained to me for the first time the nature of his claim. We agreed that Mr. Carter should be desired to attend, that we would take two neighbors as arbitrators, go on the land and settle the question on view. The topics of your right are these: I. If Champe Carter's confirmation of John's sale were necessary to supply the defect of title, then the demarcation of the line which he made in person was

a declaration of the precise extent to which he did confirm. II. The run, which was made the boundary to its source, branching by the way, and each branch being equally entitled to be considered as the run whose source was to decide, neither could claim exclusively to be called Dick's run; the compromise made by Mr. Carter by running the line between them was a fair one, and after an acquiescence of 21 years, and that length of actual and adverse possession in you, ought to be considered as satisfactory to the parties, and especially when no effective step had been taken to maintain a contrary claim till after the land had been long notified as for sale, and a sale actually made; the delay of the settlement has entirely rested with the other party. Price, who knows the two branches, thinks there may be about 25 acres between them, one half of which only is within the actual line.

Next, as to the prospect. On closing this letter I shall write to John Carter, who lives in Amherst, for information as to his right and his idea of the boundary, and if his information is of consequence I shall either get his deposition taken by consent of parties, or require his personal attendance as a witness. I must press upon Colonel Monroe the fixing a day when he can attend, and some one to act for him if he does not attend. Champe Carter, I suppose, will readily agree to be bound if he does not attend. I should have been very confident of finishing this at Monroe's next visit, for he

is anxious to finish it, but that the call of Congress, the nineteenth of September will render his attendance difficult. If so, I will endeavor to prevail on him to appoint some one here to act for him; for his personal presence cannot be of much importance.

I think the downfall of Bonaparte a great blessing for Europe, which never could have had peace while he was in power. Every national society there also will be restored to their ancient limits, and to the kind of government, good or bad, which they choose. I believe the restoration of the Bourbons is the only point on which France could be rallied, and that their re-establishment is better for that country than civil wars, whether they should be a peaceable nation under a fool or a warring one under a military despot of genius. To us alone this brings misfortune. It rids of all other enemies a tyrannical nation, fully armed, and deeply embittered by the wrongs they have done us. They may greatly distress individuals in their circumstances; but the soil and the men will remain unconquerable by them, and drinking deeper daily a more deadly, unquenchable, and everlasting hatred to them. How much less money would it cost to them and pain to us, to nourish mutual affections and mutual interests and happiness. But the destructive passions seem to have been implanted in man, as one of the obstacles to his too great multiplication. While we are thus gnawed, however, by

national hatreds we retire with delight into the bosom of our individual friendships; in the full feeling of which I salute you affectionately.

TO HORATIO G. SPAFFORD.[1]

MONTICELLO, December 16, 1814.

DEAR SIR,—By the condition of the roads and repeated abandonments of the mail by the way, your favor of November 25 did not come to hand until it was certain from its contents you had left Washington. I have delayed acknowledging it therefore till you might have reached Albany, and indeed the only object of doing it thus late is to express my regret at not having had the pleasure of receiving you here, which would have been a gratification, for as to public affairs I am entirely withdrawn from every degree of intermeddling with them, and almost of reading or thinking of them. My confidence in those at the helm is so entire as to satisfy me without enquiry that they are going right, and I prefer reading the histories of other times, which furnish amusement without anxiety. Writing, too, is becoming laborious to me

[1] Horatio Gates Spafford, a warm political friend of Jefferson, was the author of a Geography of the United States, a Gazetteer of the State of New York, and a small pamphlet entitled "Some Cursory Observations on the Ordinary Construction of Wheel Carriages," a subject in which Jefferson was much interested. He was born in Tinmouth, Vt., Feb. 18, 1778, and died in Lansingburgh, N. Y., Aug. 7, 1832. See Hough's American Biographical Notes, p. 370.—EDS.

and irksome, so that I go to the writing table with reluctance. Retaining, however, my esteem and gratitude for those whose good will has been so kindly bestowed upon me, I acknowledge yours particularly, and tender you my best prayers for your health and prosperity.

MEMORANDUM OF JEFFERSON'S TAXABLE PROPERTY.

A list of the taxable property of the subscriber in Albemarle, Mar., 1815.

	Rate.	Am't.
5640 acres of land (including 400 acres on Hardware held jointly with Hudson and others) ...	.85	
90 slaves of or above the age of 12 years.....	.80	72.
12 " of 9 and under 12 years of age.....	.50	6.
73 head of cattle.....	.03	2.19
27 horses, mares, mules, and colts.....	.21	5.67
1 ice house	5.	5.
1 gigg and harness		
1 4-wheeled carriage (landau)		
House		
4 clocks		
1 bureau or secretary, mahogany.....	.50	.50
2 book cases "	.50	1.
4 chests or drawers "	.25	1.
1 side board with doors and drawers, mahogany..		
48 separate parts of dining tables " ..	.25	2.
3 tea and card tables " ..	.25	3.25
6 sophas with gold leaf	.22¼	1.33½
16 chairs, mahogany	.06¼	2.25
4 " gold leaf	.03	1.32
31 pair window curtains, foreign.....	.10	1.10
46 portraits in oil.....	.25	4.
11 " crayon	.12½	.12½
14 picture, prints and engravings with frames more than 12 inches	.15	9.60

	Rate.	Am't.
39 picture under 12 inches with gilt frames	.10	3.90
3 looking-glasses 5 feet long	5.	15.
3 " 4 feet and not 5 feet	3.	9.
1 " 3 feet and not 4 feet	2.	2.
2 " 2 feet and not 3 feet	1.	2.
1 harpsichord		
2 silver watches	.50	1.
2 silver coffee pots	.50	1.
3 plated urns and coffee pots	.10	.30
13 plated candlesticks	.05	.65
4 cut glass decanters	.05	.20
10 silver cups	.10	1.
1 manufacturing mill renting at 1280 D. @ 2¾ p. c.		
1 toll grist mill		
1 saw mill		

TO WILLIAM SHORT.

MONTICELLO, May 15, 1815.

DEAR SIR,—Your favor of the third finds me just on my departure for Bedford, and I return to you, therefore, the paper you enclosed me, without delay. To the fact of the want of time I will further add that no person on earth would more willingly than myself do whatever was within my power to reward with the honors they have merited our naval heroes, for the respect which their heroism has procured for our country, and for the humiliations they have inflicted on an insulting, a vindictive, and causeless enemy. But I never had that sort of poetical fancy which qualifies for allegorical devices, mottoes, etc. Painters, poets, men of happy imagination can alone do these things with taste. I must, therefore, refer

it back to you for some one who will do justice to the subject. The re-revolution of France furnishes an additional element of calculation for the problem of your return to France. Adversity may have taught Bonaparte moderation; but I apprehend that his temper and particular kink of insanity render him incapable of that. What a treat, indeed, would the conversation of Dupont be! He must totally despair for his country, as I do. A military despotism is now, I fear, fixed on it permanently. Among the victims of his return to power, I contemplate but one with pleasure; that is the Pope. The insult which he and the bigot of Spain have offered to the lights of the nineteenth century by the re-establishment of the Inquisition admits no forgiveness. How happily distant are we from the Bedlam of Europe. Affectionately adieu.

TO CHARLES W. PEALE.

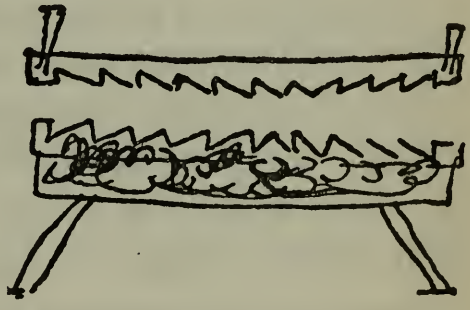
MONTICELLO, June 13, 1815.

DEAR SIR,—In your favor of May 2 you ask my advice on the best mode of selling your Museum, on which, however, I really am not qualified to advise. This depends entirely on the genius and habits of those among whom you live, with which you are so much better acquainted. I wish first it may be disposed of the most to your advantage, and secondly that it may not be separated. If profit be regarded, the purchaser must keep it in

Philadelphia, where alone the number and taste of the inhabitants can ensure its maintenance. It will be yet some time (perhaps a month) before my workmen will be free to make the plough I shall send you. You will be at perfect liberty to use the form of the mouldboard, as all the world is, having never thought of monopolizing by patent any useful idea which happens to offer itself to me; and the permission to do this is doing a great deal more harm than good. There is a late instance in this State of a rascal going through every part of it, and swindling the mill-owners, under a patent of two years old only, out of 20,000 dollars for the use of winged-gudgeons which they have had in their mills for twenty years, every one preferring to pay ten dollars unjustly rather than be dragged into a Federal court, one, two, or three hundred miles distant.

I think the cornsheller you describe, with two cylinders, is exactly the one made in a neighboring county, where they are sold at twenty dollars. I propose to take some opportunity of seeing how it performs. The reason of the derangement of machines with wooden cylinders of any length is the springing of the timber, to which white oak has a peculiar disposition. For that reason we prefer pine as the least apt to spring. You once told me of what wood you made the bars of the pen-frame in the polygraph, as springing less than any other wood; and I have often wished to recollect it, but cannot. We give up here the cleaning of clover

seed, because it comes up so much more certainly when sown in the husk; seven bushels of which is more easily obtained for the acre than the three pints of clean seed which the sowing-box requires. We use the machine you describe for crushing corn-cobs, and for which Oliver Evans has obtained a patent, although to my knowledge the same machine has been made by a smith in Georgetown these sixteen years for crushing plaster, and he made one for me twelve years ago, long before Evans's patent. The only difference is that he fixes his horizontally, and Evans vertically. Yet I chose to pay Evans's patent price for one rather than be involved in a lawsuit of two or three hundred dollars' cost. We are now afraid to use our ploughs, every part of which has been patented, although used ever since the fabulous days of Ceres. On the subject of the spinning jenny, which I so much prefer to the Arkwright machines, for simplicity, ease of repair, cheapness of material and work, your neighbor, Dr. Allison, of Burlington, has made a beautiful improvement by a very simple addition for the preparatory operation of roving. These are much the best machines for family and country use. For fulling in our families we use the simplest thing in the world. We make a bench of the widest



plank we can get, say half a yard wide at least, of thick and heavy stuff. We cut notches crosswise of that 2 inches long and 1 inch deep; the perpendicular side of the notch fronting the middle one from both ends; on that we lay a 4 inch board, 6 feet long, with a pin for a handle in each end, and notched as the under one. A board is nailed on each side of the under one, to keep the upper in place as it is shoved backwards and forwards, and the cloth, properly moistened, is laid between them Two hands full 20 yards in two hours.

Our threshing machines are universally in England fixed with Dutch fans for winnowing, but not with us, because we thresh immediately after harvest, to prevent weavil, and were our grain then laid up in bulk without the chaff in it, it would heat and rot. Ever and affectionately yours.

TO THOMAS W. MAURY.

MONTICELLO, January 27, 1816.

DEAR SIR,—I am favored with yours of the 17th. Mr. Cabell had apprised me of the objections to the power of imprisonment given to a functionary of our college, and having explained to him the reason for it I must refer you to him for a sight of my letter.[1] The object seems to have been totally mistaken,

[1] This is the letter written by Jefferson to Joseph C. Cabell, Jan. 24, 1816. See vol. xiv. p. 412.—EDS.

and what was intended in tenderness to the pupil has been misconstrued into an act of severity; for every one knows they may now be sent by a common magistrate to the common prison for a breach of the peace. With respect to the bank-mania, I foresaw it in 1791, and then opposed the establishment of the Bank of the United States, which I knew was only an inoculation. I have marked the progress of the disease and seen that it was incurable and to end in death. There will be a vast crush of private fortunes, as on the death of the old Continental paper, as of the Assignats of France, the Mississippi paper of Law, the South Sea paper of England, etc. The most pitiable of its victims now as before will be the helpless widow and orphan. Prudent men will mitigate its effects by caution. They will protect themselves as they do their fences when the woods are afire, by firing against it. What is most blamable is the cruelty of your process, roasting us before a slow fire like the martyrs in the days of persecution. Instead of your fifteen banks be merciful, and give us the *coup de grace*, make it a thousand. However, I am perfectly content with the fifteen, and to meet all hazards and trials with my fellow-citizens. If we keep together we shall be safe, and when error is so apparent as to become visible to the majority, they will correct it, and what we suffer during the error must be carried to account with the losses by tempests, earthquakes, etc. Yours with great friendship.

TO STEPHEN CATHALAN.[1]

MONTICELLO, February 1, 1816.

MY DEAR SIR AND FRIEND,—I received yesterday your favor of Nov. 29, from which I learn with much mortification of (the palate at least) that my letter of the third of July has never got to your hands. It was confided to the Secretary of State's office. Regrets are now useless, and the proper object to supply its place. It related generally to things friendly, to things political, etc., but the material part was a request of some particular wines which were therein specified.

1. White Hermitage of the growth of M. Jourdan; not of the dry kind, but what we call silky, which in your letter just received you say are called doux. But by our term *silky* we do not mean *sweet*, but sweetish in the smallest degree only. My taste in this is the reverse of Mr. Butler's, who you say likes the dry and sparkling, I the *non mousseux* and *un peu doucereux*.

2. Vin de Nice, as nearly as possible of the quality of that sent me by Mr. Sasserno formerly, whose death, by the bye, I had not before heard of, and much regret.

3. Vin de Roussillon. I used to meet with this at the best tables of Paris, where it was drunk after the repast, as a *vin de liqueur*. It was a little higher

[1] Stephen Cathalan was for a very long time consul of the United States at Marseilles, and a business correspondent of Jefferson.—EDS.

colored than Madeira, near as strong and dry, and of fine flavor. I am not certain of the particular name, but that of Rivesalte runs in my head. If, from what you know of the Rivesalte it should answer this description nearly, then we may be sure this was the wine; if it does not, you will probably be able to know what wine of Roussillon corresponds with the qualities I describe.

I requested that after paying for 50 lbs. of macaroni out of the 200 dollars, and reserving what would pay all charges till shipped, about a fifth of the residue should be laid out in Hermitage, and the remaining four-fifths in Vins de Nice [and?] Roussillon equally. Send to any port from Boston to the Chesapeake inclusive, but to Norfolk or Richmond of preference, if a conveyance occurs. If addressed to the Collector of the Port, he will receive and forward them to Richmond, which is at the head of the tidewater of James River on which I live, and from whence it comes by boat navigation. I suppose you can never be long without vessels at Marseilles bound to some of our ports above described. Were it to be otherwise the wines might come through the canal of Languedoc to Mr. Lee, our consul at Bordeaux, but this would increase risk and expense, and is only mentioned as a *pis-aller*, and left entirely to your judgment.

The political speculations of my letter of July 3 are not worth repeating because the events on which they were hazarded have changed backwards and

forwards, two or three times since that. My wishes are for the happiness of France, without caring what executive magistrate makes her happy. I must confess, however, I did not wish it to be Bonaparte. I considered him as the very worst of all human beings, and as having inflicted more misery on mankind than any other who had ever lived. I was very unwilling that the example of his parricide usurpation should finally stand approved by success. He is now off the scene, I hope never to return on it; but whether you are much more at your ease in the hands of the allies, you know better than I do. On the subject of your continuance in the consulate, I hope you will never have anything to fear; never, certainly whilst any effort of mine can have any weight with the government; and in a late letter to the Secretary of State, wherein I had occasion to speak of you, I have placed your merits on ground which I think will never be assailed. God bless you and preserve you many years in health and prosperity.

TO MARY B. BRIGGS.

MONTICELLO, April 17, 1816.

I thank you, my excellent young friend, for your kind letter of March 7. The heart must be of uncommon sensibility which feels so strongly slight degrees of merit in others. If I have ever been useful to your father, it was by doing what was much

more useful to the public for whom I acted, by availing them of the services of a faithful and able citizen. It is not, then, to me you are indebted, but to his worth and science which marked him for notice. Mine was but an act of duty, which, like the payment of a debt, has no merit to claim; and I feel myself fully remunerated by its having been the means of introducing to me the knowledge of an amiable daughter, inheriting the kind heart of her father, copying, in the age of the passions, the virtues of a model tested by time and experience. Go on then my worthy friend, in this career of excellence, and be strong in the assurance given by an inspired pen, "I have been young, and now I am old, and yet never saw I the righteous forsaken, or his seed begging their bread." And if the prayers of an old man can be of any avail, you shall ever have mine most ardently. Accept my friendly salutations.

TO JOSEPH STORY.[1]

MONTICELLO, June 19, 1816.

I thank you, dear Sir, for the eulogy of Mr. Dexter, which you have been so kind as to send me, and I subscribe with sincerity to the testimonies it bears

[1] Joseph Story, one of the most eminent jurists this country has produced, was born in Marblehead, Mass., Sept. 18, 1779, and died in Cambridge Sept. 10, 1845. In November, 1811, when little more than thirty-two, he was made an Associate Justice of the Supreme Court of the United States. See Story's Life and Letters of Joseph Story.—EDS

of his merits. No one rendered more justice to his virtues and talents than myself; and if, in political matters, we entertained some differences of opinion, they were on both sides the result of honest conviction, and held by both as inoffensive as differences of feature. His loss was a real affliction to the friends of our Union, and especially at a crisis when a successor was in question to the important magistracy for which he was proposed. I am fond, however, of believing that the majority with you will still return to the sacred principle of fidelity to the Union, and will see in the duties which he would have inculcated their own most important interests. Accept the assurance of my great esteem and respect.

TO WILLIAM THORNTON.

MONTICELLO, July 27, 1816.

DEAR SIR,—Your favor of the twentieth is received, and I take up my pen merely to assure you I had not mentioned the return of the paintings from any hurry to receive them, but merely to make known a safe occasion of sending them, if done with. I thank you for the offer to place a copy of one of them here in oil, but Stuart's original takes as much room on the walls as the thing is worth. With respect to the merit of Otis's painting,[1] I am not qual-

[1] Bass Otis painted a portrait of Jefferson, which was engraved for Joseph Delaplaine's Portrait Gallery. It has been reproduced as a photogravure for the present work. See Frontispiece of vol. v.

ified to say anything, for this is a case where the precept of "know thyself" does not apply. The ladies from the studies of their looking-glasses may be good judges of their own faces; but we see ours only under a mask of soap suds and the scrapings of the razor.

Accept always the assurance of my great esteem and respect.

TO CHARLES PINCKNEY.

MONTICELLO, September 3, 1816.

DEAR SIR,—Your favor of August has been duly received, with the pamphlet it covered.[1] Colonel Monroe happened to be at his seat adjoining me, and to dine with me the day I received it. I thought I could not make better use of it than by putting it into his hands, to let him know his friends. You say nothing in your letter of your health, which, after so long an interval, cannot but be interesting to a friend. I hope it continues firm. As for myself, I weaken very sensibly, yet with such a continuance of good health as makes me fear I shall wear out very tediously, which is not what one would wish. I see

[1] The reference is to a pamphlet of fifty-two octavo pages published by Charles Pinckney in 1816, under the title of "Observations to shew the Propriety of the Nomination of Colonel James Monroe, to the Presidency of the United States by the Caucus at Washington. In which a full answer is given to the pamphlet entitled 'Exposition of the motives for opposing the nomination of Mr. Monroe as President of the United States.' By a South Carolinian." It is a vigorous defence of the public life of Mr. Monroe, and strongly advocated his nomination.—EDS.

no comfort in outliving one's friends, and remaining a mere monument of the times which are past. I withdraw myself as much as possible from politics, and gladly shelter myself under the wings of the generation for which, in our day, we have labored faithfully to provide shelter. Yours with continued friendship and respect.

TO NOAH WORCESTER.[1]

Nov. 26, 1817.

Sir,—You have not been mistaken in supposing my views and feeling to be in favor of the abolition of war. Of my dispostion to maintain peace until its condition shall be made less tolerable than that of war itself, the world has had proofs, and more, perhaps, than it has approved. I hope it is practicable, by improving the mind and morals of society, to lessen the dispostion to war; but of its abolition I despair. Still, on the axiom that a less degree of evil is preferable to a greater, no means should be neglected which

[1] Rev. Dr. Noah Worcester, now best known for his advocacy of peace between nations, and as the first Secretary of the Massachusetts Peace Society, was born in Hollis, N. H., Nov. 25, 1758, and died in Brighton, Mass., Oct. 31, 1837. During the Revolution he served for a time in the army as a fifer, and was present at the battles of Bunker Hill and Bennington. Subsequently he taught school, and afterward entered the ministry, and for fifteen years he was minister of a church in Thornton, N. H. He had been brought up as a Trinitarian, but previous to his removal to Brighton, in 1813, he became an avowed Unitarian. He was a voluminous writer on religious and philanthropic themes. See Ware's Memoirs of the Rev. Noah Worcester, D. D.—Eds.

may add weight to the better scale. The enrolment you propose, therefore, of my name in the records of your society cannot be unacceptable to me. It will be a true testimony of my principles and persuasion that the state of peace is that which most improves the manners and morals, the prosperity and happiness of mankind; and although I dare not promise myself that it can be perpetually maintained, yet if, by the inculcations of reason or religion, the perversities of our nature can be so far corrected as sometimes to prevent the necessity, either supposed or real, of an appeal to the blinder scourges of war, murder, and devastation, the benevolent endeavors of the friends of peace will not be entirely without remuneration. I pray you to accept the assurance of my respect and consideration.

TO BERNARD PEYTON.[1]

MONTICELLO, Mar. 20, 1818.

DEAR SIR,—I received yesterday your favor of the 16th, and am thankful for your attention to my wants. I saw William Johnson the evening before his boat started last. He told me that he should not go down himself, but that his brother would, and he

[1] Bernard Peyton was a commission merchant in Richmond, and during the latter part of Jefferson's life transacted most, if not all, of his business in that city. It is interesting to note the fact that in consequence of the difficulty of buying raw cotton, in 1818, Jefferson proposed "to recur to the cultivating it" himself. The principal products of his plantations were wheat and tobacco.—EDS.

would be answerable for every thing trusted to him as if to himself. I was on horse back and at the river side, so could not give him a written order, but shall hereafter be willing to trust *his boat*, whether he is with it himself or not, and consequently would wish the rest of my wines to be delivered to the conductor of his boat whenever called for. The impossibility of buying raw cotton obliges [me] to recur to the cultivating it myself. So much has it [got] out of practice that even the seed is lost in this part of the country. Could you possibly buy me a sack or barrel of about five bushels? It will be a great accommodation to me. Affectionately yours.

TO JOHN NELSON.[1]

MONTICELLO, NOV. 8, 1818.

DEAR SIR,—I enclose you four letters lately received, which I suppose to be from your friends in Ireland, and which I hope may give you agreeable news from them.

I return you also the papers which Mr. Dinsmore gave me from you, and I see, not without sensible regret, that our ideas of the mode of charging interest are very different. I never in my life paid a cent of compound interest, being principled against it; not but that compound may be made as just as simple

[1] This letter is printed from Jefferson's polygraph copy. It is addressed at the foot of the page to "Mr. Neilson," but is indorsed in Jefferson's hand "John Nelson."—EDS.

interest, but then it should be at a lower rate. Interest, simple or compound, is a compensation for the use of money, and the legislature supposed, as is the truth and general opinion, that taking one mode of employing money with another, 6 per cent simple interest is an average profit; but had they established a compensation by way of compound interest, they would have probably fixed it at 4 or 4½ per cent. The difference it makes in our case is but a little over forty dollars, a sum which with you I think nothing of, could I allow myself to countenance what I think is wrong, without pretending to censure those who think differently; as it is, your debt, in the form in which I always considered it, shall be paid out of the proceeds of my crop now going to market as soon as sold, which possibly may be not till April. Your debt has remained in my hands because not called for, and in the belief you had no expectation of placing it at better profit. Had I ever supposed you wished to employ it otherwise, it should never have been kept from you a moment. In no case, however, will this difference of opinion lessen my wishes to be useful to you, nor my friendly esteem for you.

TO WILLIAM TUDOR.[1]

MONTICELLO, Jan. 31, 1819.

SIR,—Your favor of the 13th was received on the 24th, and I extremely regret that it is not in my power to give you any information on the subject of Mr. James Otis. My acquaintance with the Eastern characters began with the first Congress; Mr. Otis not being a member, I had never any personal acquaintance or correspondence with him. Colonel Richard Henry Lee, of Westmoreland County, had, I know, an active correspondence from the early dawn of our Revolution with gentlemen of that quarter, and with none more probably than Mr. Otis, who was then so conspicuous in the principles of the day. It is probable he preserved Mr. Otis's letters, and that his family now possesses them. Of them I have no knowledge, as their residence is in a part of the State very remote from mine. But a certain and easy channel for your communication with them would be through any member of Congress from your State and the member from the Westmoreland district of ours. Who he is, I cannot tell you, so entirely am I withdrawn from all attention to public affairs, and so thoroughly satisfied to leave them to the generation

[1] William Tudor, Jr., was born in Boston, Jan. 28, 1779, graduated at Harvard College in 1796, and died at Rio de Janeiro, March 9, 1830. He was the founder and first editor of the "North American Review," and author of a "Life of James Otis," which has deservedly enjoyed a high reputation, besides several minor publications. See Proceedings (Massachusetts Historical Society), vol. i. pp. 429–433.—EDS.

in place, in whose hands, from the advancing state of knowledge, they will be at least as wisely conducted as they have been by their predecessors. With this scanty information, all, however, which I possess, I pray you to accept the assurance of my high respect and esteem.

TO WILLIAM SHORT.

MONTICELLO, June 22, 1819.[1]

DEAR SIR,—Your favor of June 22 is received. That of May 25 had come to hand in due time, and was in my bundle of "Letters to be answered;" but as I am obliged to marshal them according to their degree of pressure I had not yet reached it, although I devote to that business daily from sunrise to dinner, saving one hour to ride, and generally from dinner to sunset. On the subject of the anatomist and mathematician who wish a place in our University, nothing can be said at present, because it has been concluded by the Visitors to employ all our funds of the present and next year in providing buildings for the habitation of the professors and students, and consequently not to open the University *generally* until the year 1821. I say *generally*, because particular and previous transactions had led to the proposing to Dr. Cooper the commencing his branches in April next. The conflagration in which you are kind enough to take an interest was only of a detached

[1] Mistake in date; should be June 29.

pavilion, which is now again under repair. Mr. Poletika has been on a visit to us and left us yesterday. I had previously by letter given him the necessary explanations on Kosciusko's affairs here, which were quite satisfactory to him. I am endeavoring to transfer the whole business to a Federal court, having refused the executorship. We have had a circuitous rumor that you meant to visit your native State this summer. In that event we should certainly hope to share in the visit. As Mr. Correa promises an annual pilgrimage to this place, I am informing him of my movements the ensuing season, that I may not lose the benefit of his visit, as once befell me. I set out to Poplar Forest this day week, to remain there through July, August and September. I must be back of necessity by the 1st of October to the meeting of our Visitors, at which further arrangements will be decided on respecting our University; and as yourself as well as Mr. Correa are kind enough to take an interest in its success, it may be some inducement towards the timing your visit. I will be responsible that for health you will be as safe here as at the watering places, although we cannot offer as varied a society; yet I trust the day is not so distant but that I shall live to see it, when we can be able to offer a more desirable society to men of mind than any other place in America. We have a *carte blanche* for their employment, and we mean to accept for our institution no person of secondary grade in his science, if there be one of the first on

either side of the Atlantic who can be tempted to come to us. We are providing for them as handsome and comfortable lodgings as they can have in Europe, and their satisfaction here will be liberally cultivated. There is a cloud, however, visible in our horizon. The infatuated confidence in banks has made much of our capital of a million and a half of dollars to depend on their fate. My remonstrances for years back against these unsafe deposits have been received as the forebodings of Cassandra. When now upbraided with this the answer is, Who would have thought it? Till the present state of things, however, be unravelled, we must slacken our pace. I salute you as ever with constant and affectionate friendship and respect.

TO GEORGE A. OTIS.[1]

MONTICELLO, December 25, 1820.

SIR,—I have to thank you for the second volume of your translation of Botta, which I received with your favor of the fifth, on my return home after a long absence. I join Mr. Adams heartily in good wishes for the success of your labors, and hope they will bring you both profit and fame. You have

[1] George Alexander Otis was the son of Dr. Ephraim Otis, of Scituate, and was born August 29, 1781. He settled in Boston and was the author of numerous translations, of which the best known is his translation of Botta's History of the War of American Independence. See N. E. Hist. and Gen. Register, vol. iv. p. 151.—EDS.

certainly rendered a good service to your country; and when the superiority of the work over every other on the same subject shall be more known, I think it will be the common manual of our revolutionary history. I have not been sensible of the Southern partiality imputed by Mr. Adams to the author. The Southern States as well as Northern did zealously whatever the situation or circumstances of each, or of their sister States, required or permitted, and a relation of what they did is only justice. I disapprove, with Mr. Adams, of the factitious speeches which Botta has composed for R. H. Lee and John Dickinson, speeches which he and I know were never made by these gentlemen. They took a part indeed in that great debate, and I believe we may admit Mr. Dickinson to have been the prominent debater against the measure. But many acted abler parts than R. H. Lee, as particularly Mr. Adams himself did. Mr. Lee was considered as an orator and eloquent, but not in that style which had much weight in such an assembly of men as that Congress was. Frothy, flimsy, verbose, with a musical voice and chaste language, he was a good pioneer, but not an efficient reasoner. This, Mr. Adams can tell you as well as myself. With regard to Botta, I have understood that he has taken some occasion to apologize for these supposititious speeches by pleading the example of the ancient historians; and we all know that their practice was to state the reasons for and against a meas-

ure in the form of speeches, and put them into the mouths of some eminent character of their selection, who probably had never uttered a word of them. I think the modern practice better of saying it was argued on one side by A, B, C, and others, so and so, and on the other by D, E, F, and others, so and so; giving in this form the reasons for and against the measure. I do not recollect whether Botta has repeated the fault on other occasions. With respect to the speeches in the British Parliament I have taken for granted that he copied or abridged them from the Parliamentary Debates. Mr.Adams's criticism on Davila and Hume is just; that the former is an apology for Catharine of Medicis, and the latter of the Stuarts, to which might be added Robertson's Mary, Queen of Scots. And these odious partialities are much to be lamented; for otherwise they are three of the finest models of historical composition that have been produced since the days of Livy and Tacitus.

Wishing you a full remuneration, either by the profits of your work or by the evidence it may have furnished the government of the degree in which they may avail the public of your services, I salute you with sentiments of esteem and respect.

P. S. I have just dispatched your two volumes to Mr. Botta, to whom I am sure they will be a gratification.

TO MARIA COSWAY.[1]

MONTICELLO, December 27, 1820.

"Over the length of silence I draw a curtain," is an expression, my dear friend, of your cherished letter of April 7, 1819, of which it might seem I have need to avail myself; but not so really. To seventy-seven heavy years add two of prostrate health, during which all correspondence has been suspended of necessity, and you have the true cause of not having heard from me. My wrist, too, dislocated in Paris while I had the pleasure of being there with you, is, by the effect of years, now so stiffened that writing is become a most slow and painful operation, and scarcely ever undertaken but under the goad of imperious business. But I have never lost sight of your letter, and give it now the first place among those of my transatlantic friends which have been laying unacknowledged during the same period of ill-health.

[1] Maria Hadfield was the daughter of an Irishman or Englishman living in Italy, and was born in Florence, but the date of her birth is uncertain; and the date of her death is also unknown. After the death of her father she was brought to England by her mother, and took up miniature painting. In 1781 she exhibited three pictures at the Royal Academy, and in the same year was married to Richard Cosway, then a very fashionable and highly successful artist. She herself obtained great popularity as a painter and etcher, and is mentioned several times in the letters of Horace Walpole. Much of her life is involved in obscurity, but a large part of it was spent on the Continent. There are numerous letters to and from her among the Jefferson Papers, extracts from which are printed in Miss Randolph's Domestic Life of Thomas Jefferson. See Dictionary of National Biography, vol. xii. pp. 278–280.—EDS.

I rejoice in the first place that you are well; for your silence on that subject encourages me to presume it. And next, that you have been so usefully and pleasingly occupied in preparing the minds of others to enjoy the blessings you have yourself derived from the same source, a cultivated mind. Of Mr. Cosway I fear to say anything, such is the disheartening account of the state of his health given in your letter. But here or wherever, I am sure he has all the happiness which an honest life ensures. Nor will I say anything of the troubles of those among whom you live. I see they are great, and wish them happily out of them, and especially that you may be safe and happy, whatever be their issue. I will talk about Monticello, then, and my own country, as is the wish expressed in your letter. My daughter [1] Randolph, whom you knew in Paris a young girl, is now the mother of eleven living children, the grandmother of about half a dozen others, enjoys health and good spirits, and sees the worth of her husband attested by his being at present Governor of the State in which we live. Among these, I live like a patriarch of old. Our friend Trumbull is well, and profitably and honorably employed by his country in commemorating with his pencil some of its revolutionary honors. Of Mrs. Cruger I hear nothing, nor for a long time of Madame de Corny. Such is the present state of our former coterie: dead, diseased, and dispersed.

[1] Martha Jefferson (Mrs. Thomas Mann Randolph).

But "tout ce qui est differé n'est pas perdu." says the French proverb, and the religion you so sincerely profess tells us we shall meet again; and we have all so lived as to be assured it will be in happiness. Mine is the next turn, and I shall meet it with good will, for after one's friends are all gone before them, and our faculties leaving us, too, one by one, why wish to linger in mere vegetation,—as a solitary trunk in a desolate field, from which all its former companions have disappeared? You have many good years remaining yet to be happy yourself and to make those around you happy. May these, my dear friend, be as many as yourself may wish, and all of them filled with health and happiness, will be among the last and warmest wishes of an unchangeable friend.

TO WILLIAM THORNTON.[1]

MONTICELLO, January 19, 1821.

DEAR SIR,—Your letter of the ninth was nineteen days in its passage to me, being received yesterday evening only; and now that I have received it, I wish that I could answer it more to your satisfaction. I must explain to you my situation. When I retired from office at Washington, my intimacy with my successor being well known, I became the

[1] William Thornton was head of the Patent Office 1802–1827. He was a skilled architect, and planned the first Capitol at Washington, and superintended the early part of its construction

center of application from all quarters, by those who wished appointments, to use my interposition in their favor. I gave into it for a while, until I found that I must forever keep myself prostrate, and in the posture of a suppliant before the government, or renounce altogether the office of an intercessor. I determined on the latter; and the number of applicants obliged me to have a formal letter printed in blank, to which I had only to put the date, signature, and address. I inclose you one of these in proof of the necessity I was under of laying down such a law to myself, and of a rigorous adherence to it. I comfort myself, however, in your case with the unimportance of any interposition. You are so well known to the President and heads of departments that they need nobody's information as to your qualifications and means of service. Where they know facts themselves they will act on their own judgments, and in your case particularly with every disposition in your favor; and whatever they shall do for you will give no one greater pleasure than myself.

I am much indebted to you for the pamphlet of patents. It is a document which I have often occasion to consult. With my respectful souvenirs to the ladies of your family, I pray you to accept the assurance of my continued esteem and attachment.

TO JOHN TAYLOR.[1]

MONTICELLO, February 14, 1821.

DEAR SIR,— . . . I received some time ago from Mr. Ritchie, in your name and his, a copy of your late work on the Constitution of the United States. I returned him my thanks, and begged they might be communicated to yourself through the same channel.[2] But I am glad to avail myself of this opportunity of doing it directly, and with the more pleasure after having read the book, and acquired a knowledge of its value. I have no hesitation in saying that it carries us back to the genuine principles of the Constitution more demonstratively than any work published since the date of that instrument. It pulverizes the sophistries of the judges on bank taxation, and of the five lawyers on lotteries. This last act of venality(for it cannot be of judgment) makes me ashamed that I was ever a lawyer. I have suggested to a friend in the legislature that that body should send a copy of your book to every one of our Representatives and Senators in Congress as a standing instruction, and, with a declaration that it contains the catholic faith, which whosoever doth not keep whole and unde-

[1] The original of this letter is in the collection of autographs given to the Massachusetts Historical Society by Mr. and Mrs. A. C. Washburn. The first part of the letter relates to the pecuniary circumstances in which the family of Wilson C. Nicholas were left at his death and has therefore been omitted.—EDS.

[2] The letter to Thomas Ritchie here referred to was written by Jefferson on Dec. 25, 1820. See vol. xv. p. 295.

filed, without doubt he shall perish everlastingly. Our University labors hard to come into existence. I am surprised it finds enemies in the colleges, academies, and private classical schools throughout the State, as if inimical to them. But it becomes in truth their foundation, not their rival. It leaves to them the field of classical preparation, not proposing to turn itself into a grammar school. It leaves to them that middle degree of instruction in geography, surveying, grammar, etc., which will be called for by the great body of those who cannot afford or who do not wish an University education. We shall receive only those subjects who desire the highest degree of instruction, for which they now go to Harvard, Princeton, New York, and Philadelphia. These seminaries are no longer proper for Southern or Western students. The signs of the times admonish us to call them home. If knowledge is power, we should look to its advancement at home, where no resource of power will be unwanting. This may not be in my day; but probably will in yours. God send to our country a happy deliverance, and to yourself health, and as long a life as yourself shall wish.

TO ———.[1]

MONTICELLO, November 24, 1821.

DEAR SIR,—Your welcome favor of the 12th came to hand two days ago. I was just returned from Poplar Forest, which I have visited four times this year. I have an excellent house there, inferior only to Monticello, am comfortably fixed and attended, have a few good neighbors, and pass my time there in a tranquillity and retirement much adapted to my age and indolence. You so kindly ask an explanation of the illness which held me so long that I feel it a duty to give it. Having been long subject to local and slight affections of rheumatism, and being at Staunton on other business, I thought I would go to the Warm Springs and eradicate the *seeds* of it, for I was then in perfect health. I used the bath moderately for three weeks. I was not quick enough, however, in observing the gradual debility it was bringing on me. At length it produced a general eruption and imposthume. After a painful journey I got home unable to walk without help,

[1] This letter is printed from the polygraph copy in Jefferson's own hand, which bears no indication of the person to whom it was addressed. But there can be no doubt that it was written in answer to a letter from William Short, dated Philadelphia, Nov. 12, 1821, now in the Department of State at Washington, and calendared as follows, "Wishes to have direct intelligence as to his health and about the university, in which he takes great interest. His dislike of Mr. Madison. Governor Mercer's bad health. Le Roy de Chaumont's estate. Tour on the great canal from Utica to Rome (N. Y.)." See Bulletin of the Bureau of Rolls and Library of the Department of State. No. 8, p. 499.—EDS.

and the debility and indisposition rapidly increased and reduced me to death's door. Swelled legs began to threaten dropsy, aided by a prostration of the visceral powers. Abandoning medicine, however, and fortifying my legs by bandages continued eight or ten months, I am at length entirely recovered, and suppose myself as well as I ever shall be. I am very little able to walk, but ride freely without fatigue. No better proof than that on a late visit to the Natural Bridge I was six days successively on horseback from breakfast to sunset. You enquire also about our University. All its buildings except the Library will be finished by the ensuing spring. It will be a splendid establishment, would be thought so in Europe, and for the chastity of its architecture and classical taste leaves everything in America far behind it. But the Library, not yet begun, is essentially wanting to give it unity and consolidation as a single object. It will have cost in the whole but 250,000 dollars. The library is to be on the principle of the Pantheon, a sphere within a cylinder of 70 feet diameter,—to wit, one-half only of the dimensions of the Pantheon, and of a single order only. When this is done you must come and see it. I do not admire your Canada speculation. I think, with Mr. Rittenhouse, that it is altogether unaccountable how any man can stay in a cold country who can find room in a warm one, and should certainly prefer, to polar regions of ice and snow, lands as fertile and cheap which may be cov-

ered with groves of olives and oranges. I envy M. Chaumont nothing but his French cook and cuisine. These are luxuries which can neither be forgotten nor possessed in our country. Our State has been visited by a sporadic fever of a most extraordinary character, if a thing so diversified can be said to have any character. In some places rapid and mortal, in others tedious and of little danger. It has prevailed, too, almost solely in the mountainous regions —Harper's Ferry, Loudon, Orange, Buckingham, Bedford, Botetourt. At the Big Lick in the last county it was stopped only by the complete extermination of every human being living at the place, forty-two in number. It is at length disappearing in most places. Our Visitors meet the ensuing week, and you will see in the public papers their annual report to the legislature on the state of the University, which will give you more particular views of it than I have done. We hear not a word of Correa, and it is long since I have heard of Charles Thomson. You would gratify me greatly by a minute account of his condition, which you can readily obtain where you are. You say nothing of your own health, whence I presume it good, and that it may continue so through as long a life as yourself shall wish is the prayer of your ever affectionate friend.

TO WILLIAM TUDOR.[1]

MONTICELLO, Feb. 14, 1823.

SIR,—I have duly received your favor of Jan. 24, and with that a copy of your life of James Otis, for which be pleased to accept my thanks. The character of Mr. Otis, the subject of this work, is one which I have always been taught to hold in high estimation, and I have no doubt that the volume will on perusal be found worthy of its subject. With respect to the part of it respecting Dr. Franklin, on which you ask my opinion particularly, I have perused it with attention, and as far as my personal acquaintance authorizes me to say, I think it generally just and correct. Of one point, however, I was not aware, to wit, that the Doctor came more tardily into the idea of resistance by arms than others generally. When he returned from England and took his first seat in Congress, which was before our second petition to the king, he was as forward as any of us; and he first laid on our table a form of confederation. However, it is very possible that while he continued in England, surrounded by the appalling means of that powerful nation, and compared them with ours, he might have doubts whether the array in arms might not be better

[1] The Massachusetts Historical Society owns the original draught of this letter (in the collection of Jefferson Papers given by Mr. Coolidge in June, 1898), and also the letter actually sent (in the collection of Tudor Papers given by Mrs. Fenno Tudor in April, 1881). In the draught a few words were abbreviated, and two or three slight verbal changes were made when the letter was written out. The letter is here printed from the perfected copy.—EDS.

postponed awhile. On this subject, however, I have no particular information. With my thanks for the copy of your work, be pleased to accept the assurance of my great esteem and respect.

TO THOMAS COX.[1]

MONTICELLO, June 3, 1823.

SIR,—I have duly received your favor of May 2, and since that the twenty bottles of Scuppernon wine you have been so kind as to forward. I am gratified, too, to learn that the two casks of that wine furnished me heretofore through the friendly agency of Colonel Burton were from you. They were really fine. I had urgently pressed on him that there should be no cookery on them of brandy, sugar, or other medicament, and as far as my palate can discriminate they are pure. All the samples of this wine which I have seen except these two and one other, have been so adulterated with brandy and sugar as to be mere juleps, and not wine; and candor obliges me to say that the twenty bottles now received are so charged with brandy, perhaps too with sugar, as that the vinous flavor is lost and absorbed. There will never be a drinkable wine made in this country until this barbarous practice is discontinued of adulterating with brandy. It is the result of a taste vitiated by the use of ardent spirits. I shall be gratified indeed

[1] This letter is printed from the original draught, which is indorsed in Jefferson's hand "Cox, Thos. Plymouth, N. C., June 3, 23."—EDS.

if permitted to apply to you for my supplies from time to time of this wine which I so much esteem, under an absolute assurance that there shall be nothing in it but the pure juice of the grape. If there be any fear that it will not keep without brandy, let that be my risk.

Your offer is the more acceptable as I find that your correspondent in Richmond and mine is the same. Colonel B. Peyton will always pay on demand the cost of the wine on your draught and the general instruction which I will send him, and I shall be glad to receive now a thirty gallon cask as soon as you can furnish it with a certainty of its purity, adding to your draught for its cost that of the twenty bottles recently received.

I am not sufficiently acquainted with the process of wine making in France to give you any useful information on the subject. This fact only I know, that no man who makes a wine of reputation in that country would put a teaspoonful of brandy into it were you to offer him a guinea a bottle for it, because, as he says, it would forever destroy the character of his wine. This operation is always performed by the exporting merchant, and those of Bordeaux expressed their astonishment to me at the instructions they always received from American customers to put such a proportion of brandy into the wines they called for. It will be a satisfaction to me to learn from yourself that you can furnish me with this wine with an assurance that it shall be pure and unadul-

terated. Accept my salutations of esteem and respect.

P. S.—What is deemed the age of perfect ripeness of this wine, and the proper one for drinking it?

TO JAMES MONROE.[1]

MONTICELLO, June 14, 1823.

DEAR SIR,—The reasons assigned in your favor of the 7th for preferring to retain Loudon instead of Albemarle are such as cannot be controverted. The society of our children is the sovereign balm of life, and the older we grow the more we need it to fill up the void made by the daily losses of the companions and friends of our youth. Nor ought we of this neighborhood to regret a preference so conducive to your own happiness. We must submit, as in other cases, to unwelcome occurrences, and hope that in the endeavor to retain a part of the estate here we see a possibility of your visiting us occasionally. To me the loss will be greater than to younger persons. Age and debility have obliged me to put all my affairs into the hands of my grandson.[2] Even a daily ride, necessary to keep up my health and spirits, is now at a loss for objects to encourage it. To have termi-

[1] This letter is printed from a rough draught, with numerous omissions and interlineations.—EDS.

[2] Thomas Jefferson Randolph, eldest son of Thomas Mann and Martha (Jefferson) Randolph. He was born at Monticello, Sept. 12, 1792, and died at Edge Hill, Oct. 8, 1875.—EDS.

nated it sometimes at Oakwood with a half hour's conversation with those whose minds, familiarised with the same scenes, would range with sympathy over the same topics, would have chequered the monotony of a country life disengaged from country occupations. The University, indeed, gives me some welcome employment. If the legislature will declare at once to have given what they have hitherto called a loan, so that I may see the institution opened on the high ground I have ever contemplated, I shall sing my *nunc dimittis* with pleasure.

The case in which you have so kindly endeavored to mediate is too long for explanation by letter. I must reserve it for conversation when we meet again. In the meanwhile no time is lost, for as long as the party continues his present habits there would be neither satisfaction nor safety in his society; and his reclamation from them I believe to be absolutely desperate. This, however, does not lessen our sense of the kindness and friendship of your wish to relieve us from the most constant and poignant affliction of our lives. And with the assurance of our gratitude for this, accept that of my constant and cordial friendship and respect.

TO JOSHUA DODGE.

MONTICELLO, Aug. 3, 1823.

DEAR SIR,—I am happy by your favor of July 7, to hear from you after your tour through so much of the

United States, and particularly to receive the result of your observations of the general ascendancy of republicanism and of good dispositions towards Spain. The two sentiments spring from the same root. The republican regeneration of Massachusetts gives me real joy. The union of New England and Virginia alone carried us through the revolution. Five steady votes were given by them on every question, and we picked up scatterers from the other less decided States which always secured a majority. Since that we are become aliens and almost hostile; and why? I know not. Virginia has never swerved a hair's breadth from the line of republicanism and Americanism. Massachusetts has strayed a little into the paths of federalism and Anglicism; but a good portion of her citizens have always remained loyal to true principles; they have brought their wandering brethren back again to their fold, and we joyfully receive them with the fraternal embrace. We shall now, I hope, feel towards each other the sentiments which united us in the revolution and become again truly brethren of the same principle.

I am just recovered from an illness of three weeks and am obliged to borrow the pen of another to assure you of my great esteem and respect.

P. S. Mr. Degrand has been so kind as to inform me that he received and forwarded my duplicate letters to your house for my annual supplies.

TO THOMAS COX.

MONTICELLO, Sept. 5, 1823.

DEAR SIR,—Your favor of July 16, was received in due time, and I am thankful for the trouble you propose to undertake to procure for me at this ensuing vintage a barrel of the Scuppernon pure juice without any adulteration of brandy or other thing. I would wish it to be sent early in November when it will be endangered by neither the heat or cold of the season. I will give that cask a fair trial, as well whether it will keep without brandy as to ascertain at what age it is properly ripe for use. I have drunk it at four years old, and it was the best I ever drank. I believe it is a wine which requires a certain age, and if it improves with age it is a proof it has a body of its own, not needing brandy. As this is destined for a distant time I must ask the favor of you to procure me a couple of quarter casks for immediate use. Let them be as old and with as little brandy as can be found, and if the mixture be of French instead of apple brandy I shall gladly pay the difference of their cost. I think it worth while to go to the expense of double casking them to guard against adulteration on their passage. If you will be so good as to forward them to Colonel B. Peyton of Richmond, and to draw on him on my account for their cost he will honor your draft. If this wine can mature itself without being brandied, it will attain a high character. Otherwise it must still be unbrandied and drunk at

the age to which it will keep itself; for the brandy flavor in wine will never satisfy a practised palate. Accept the tender of my great esteem and respect.

MARQUIS DE LAFAYETTE TO THOMAS JEFFERSON.

La Grange, December 20th, 1823.

My dear Friend,—It is a very long while since my eyes were gratified with a sight of your handwriting; I know that occupation is a fatigue to you, and would not be importunate. But when you indulge the pleasure to converse with absent friends, remember few are as old, and none can be more happy than I am in the testimonies of your welfare and affection.

Every account I receive from the United States is a compensation for European disappointments and disgusts. There our revolutionary hopes have been fulfilled, and although I must admire the observations of such a witness as my friend Jefferson, we may enjoy the happy thought that never a nation has been so completely free, so rapidly prosperous, so generally enlightened. Look, on the contrary, to old Europe. Spain, Portugal, Italy, amidst the patriotic wishes of the less ignorant part of the people and the noble sentiments of a few distinguished characters, have shown themselves unequal to a regeneration, less on account of the criminal attacks of diabolical alliance and the perfidious friendships of Great Britian, than because the great masses are still

under the influence of prejudice, superstition, vicious habits, and because intrigue and corruption have found their way among the aristocratical part of their patriots. German patriotism and philanthropy evaporates in romantic ideology; two nations alone, French and English, or one of them, could take the lead in European emancipation. But in England both Whigs and Tories are tenacious of a double aristocracy, their own with respect to the Commoners, that of their island over all the countries of the earth. There is, I am told, more liberality among their Radicals; but hitherto we must take them at their word, as power is elsewhere, and they do nothing to obtain it. You have been a sharer, my dear friend, in my enthusiastic French hopes; you have seen the people of France truly a great nation, when the rights of mankind, proclaimed, conquered, supported by a whole population, were set up as a new imported American doctrine, for the instruction and example of Europe, when they might have been the sole object and the glorious price of a first irresistible impulsion, which has since been spent into other purposes by the subsequent vicissitudes of government; the triple counter revolution of Jacobinism, Bonapartism, and Bourbonism, in the first of which disguised Aristocracy had also a great part, has worn out the springs of energetic patriotism. The French people are better informed, less prejudiced, more at their ease on the point of property, industry, habits of social equality in many respects, than before the

Revolution. But from the day when the National Constitution, made, sworn, worshiped by themselves, was thrown down on a level with the edicts of arbitrary kings, to the present times, when a *chartre octroyée* is invocated by the more liberal among our publicists, so many political heresies have been professed, so dismal instances of popular tyranny are remembered, so able institutions of despotism have crushed all resistance, that, if you except our young generations, egotism and apathy, not excluding general discontent, are the prevailing disposition. In the meanwhile all adversaries of mankind,—coalesced kings, British aristocrats, Continental nobles, Coblentz emigrants, restored Jesuits, are pushing their plot with as much fury but more cunning than they had hitherto evinced. Emperor Alexander is now the chief of European counter revolution; what he and his allies will do, either in concert or in competition with England, to spoil the game of Greece, and to annoy the new republics of America, I do not know; but although the policy of the United States has been hitherto very prudent, it seems to me they cannot remain wholly indifferent to the destruction, on the American Continent, of every right proclaimed in the immortal Declaration of Independence.

Among the destitutions which the spirit of counter revolution and priestcraft are every day operating in the French seminaries of learning, there is one victim which cannot but be particularly interesting to you. I mean M. Botta, the author of an Italian history of

the war of independence, translated first in French, and since, under your auspices, in English. M. Botta, who has obtained your approbation, fully deserves it, and has a proper sense of the testimonies of your esteem, was a peaceful worthy *principal* of the College of Rouen, where his rectorship has been taken from him, under no plausible pretence, unless it is for the supposed congeniality of his opinion with our American doctrines. He had at first, or rather his friends had for him, the idea of his going to the United States. But age, bad health, a family of children keep him in France. I have been applied to on the subject of an American subscription in his behalf. Don't you think, my dear friend, it might take place; and then who could be better fit to give it proper weight and effect than you who have valued the work and the historian so far as to superintend translation for the benefit of the American youth, and give him personal marks of your regard?

I have been desired to enquire whether you have received from Doctor *Defendente Sacchi* a copy of a moral novel, called *Oriele*. The hero of the tale is made to travel throughout the United States, where he has the pleasure to converse with Mr. Jefferson when due homage is paid to the venerated interlocutor. Another copy has been sent to the American Philosophical Society at Philadelphia. No answer has come to hand. The doctor is a respectable scientific inhabitant of Pavia, chief *redacteur* of an important work, *Collection of the Classical Metaphi-*

sicians. You will easily [see?] by whom of our friends I am in this affair commissioned. He is well, and so are both our families, who request their best respects to be presented to you. Remember me to Mrs. Randolph, and receive the most affectionate good wishes of your old tender friend.

P. S. I was preparing to send the above letter when I have been blessed with yours, November 4th,[1] enclosing one for M. de Tracy. How deeply I have been affected with the account you give of your health, and the affectionate expressions of your sentiments for me, your friendly heart will better feel than words could tell. I shall answer you in a short time. But must here express the pleasure of a paternal friend when I found in your letter, and had to communicate to Miss Wright your opinion of *A Few Days in Athens*, which her high veneration for you makes her so worthy to enjoy. I shall at some time send you a short biographical note for good Mr. Botta.

I am for the second time a great-grandfather. The whole family beg to be respectfully remembered.

[1] The letter referred to was written by Jefferson to Lafayette on Nov. 4, 1823. See vol. xv. p. 490.

TO SAMUEL PARR.[1]

MONTICELLO, IN VIRGINIA, April 26, 1824.

MUCH RESPECTED SIR,—A letter addressed to you from a perfect stranger undoubtedly requires apology. This I can only find in the character of the subject producing it, a subject cherished in every literary breast. The State of Virginia, of which I am a native and resident, is engaged in the establishment of an university on a scale of such extent as may give it eminence on this side of the Atlantic. I am entrusted with a share in its administration and government. We are anxious to place in it none but professors of the first grade of science in their respective lines, and for these we must go to countries where that highest grade exists, and of preference to Great Britain, the land of our own language, morals, manners, and habits. For a professor of the classical languages particularly, of the highest attainments in them, Oxford necessarily offers itself as the institution most eminent in the world in that branch of learning; and of whose judgment there could we so much wish to be availed as that of the oldest and purest classic now living? This, then, Sir, is the object which produces the obtrusion of this letter on you. It will be handed you by Mr. F. W. Gilmer, a gentleman of high qualfications in various branches

[1] Samuel Parr, one of the most eminent classical scholars of his time and a strong Whig partisan, was born at Harrow-on-the-Hill, England, Jan. 26, 1746–7, and died at Hatton, March 6, 1825. See Dictionary of National Biography, vol. xliii. p. 364.—EDS.

of science, of a correct and honorable character, worthy of all confidence and of any attention you may be pleased to bestow on him. He is authorized to select professors for us; but being an entire stranger in the country to which he is sent to make this selection, if unaided by faithful advice from others, he may be liable to gross error and imposition in distinguishing characters of the degree of science we seek, of sober and correct morals and habits,—indispensable qualities in a professor in this country,—and of accommodating and peaceable dispositions, so necessary for the harmony of the institution. Your knowledge, respected Sir, of persons, characters and qualifications may guide and guard him in this difficult research. May we venture to ask the benefit of it, and your patronage of the mission on which Mr. Gilmer goes? To myself it would be a peculiar gratification to have an associate so eminent in the performance of offices promising so much good to those we are to leave behind us, and at an age so advanced as to indulge us in the prospect of few remaining occasions of being useful to the generations to come. With my thanks for any good offices you can render our infant institution, be pleased to accept the assurances of my high veneration, esteem, and consideration.

TO DUGALD STEWART.[1]

MONTICELLO IN VIRGINIA, April 26, 1824.

DEAR SIR,—It is now thirty-five years since I had the great pleasure of becoming acquainted with you in Paris, and since we saw together Louis XVI. led in triumph by his people through the streets of his capital; these years, too, have been like ages in the events they have engendered without seeming at all to have bettered the condition of suffering man. Yet his mind has been opening and advancing, a sentiment of his wrongs has been spreading, and it will end in the ultimate establishment of his rights. To effect this nothing is wanting but a general concurrence of will, and some fortunate accident will produce that. At a subsequent period you were so kind as to recall me to your recollection on the publication of your invaluable book on the Philosophy of the Human Mind, a copy of which you sent me, and I have been happy to see it become the text book of most of our colleges and academies, and pass through several reimpressions in the United States. An occurrence of a character dear to us both leads again to a renewal of our recollections and associates us in an occasion of still rendering some service to those we are about to leave. The State of Virginia, of which I am a native and resident, is establishing an university on a scale

[1] Dugald Stewart, one of the most famous of the Scottish metaphysicians, was born in Edinburgh, Nov. 22, 1753, and died there June 11, 1828. See Dictionary of National Biography, vol. liv. pp. 282–286. —EDS.

as extensive and liberal as circumstances permit or call for. We have been four or five years in preparing our buildings, which are now ready to receive their tenants. We proceed, therefore, to the engaging professors, and anxious to receive none but of the highest grade of science in their respective lines, we find we must have recourse to Europe, where alone that grade is to be found, and to Great Britain of preference, as the land of our own language, morals, manners, and habits. To make the selection we send a special agent, Mr. Francis W. Gilmer, who will have the honor of delivering you this letter. He is well educated himself in most of the branches of science, of correct morals and habits, an enlarged mind, and a discretion meriting entire confidence. From the universities of Oxford and Cambridge, where we expect he will find persons duly qualified in the particular branches in which these seminaries are respectively eminent, he will pass on to Edinburgh, distinguished for its school of Medicine as well as of other sciences, but when arrived there he will be a perfect stranger, and would have to grope his way in darkness and uncertainty; you can lighten his path, and to beseech you to do so is the object of this letter. Your knowledge of persons and characters there can guard him against being misled and lead him to the consummation of our wishes. We do not expect to engage the high characters there who are at the head of their schools, established in offices, honors, and emoluments which can be bettered no where. But

we know there is always a junior set of aspirants, treading on their heels, ready to take their places, and as well and sometimes better qualified than they are. These persons, unsettled as yet, surrounded by competitors of equal claims, and perhaps greater credit and interest, may be willing to accept immediately a comfortable certainty here in place of uncertain hopes there, and a lingering delay of even these. From this description of persons we may hope to procure characters of the first order of science. But how to distinguish them? For we are told that were the mission of our agent once known, he would be overwhelmed with applicants, unworthy as well as worthy, yet all supported on recommendations and certificates equally exaggerated, and by names so respectable as to confound all discrimination. Yet this discrimination is all important to us. An unlucky selection at first would blast all our prospects. Let me beseech you, then, good Sir, to lead Mr. Gilmer by the hand in his researches, to instruct him as to the competent characters, and guard him against those not so. Besides the first degree of eminence in science, a professor with us must be of sober and correct morals and habits, having the talent of communicating his knowledge with facility, and of an accommodating and peaceable temper. The latter is all important for the harmony of the institution. For minuter particulars I will refer you to Mr. Gilmer, who possesses a full knowledge of everything and our full confidence in everything. He takes with him

plans of our establishment, which will show the comfortable accommodations provided for the professors, whether with or without families; and by the expensiveness and extent of the scale they will see it is not an ephemeral thing to which they are invited.

A knowledge of your character and dispositions to do good dispenses with all apology for the trouble I give you. While the character and success of this institution, involving the future hopes and happiness of my country, will justify the anxieties I feel in the choice of its professors, I am sure the object will excite in your breast such sympathies of kind disposition, as will give us the benefits we ask of your counsels and attentions. And, with my acknowledgments for these, accept assurances of constant and sincere attachment, esteem and respect.

TO JOSEPH COOLIDGE, JR.[1]

MONTICELLO, January 15, 1825.

DEAR SIR,—I owe you many thanks for the two last books you have been so kind as to send me. I have derived a great deal of information from Russel for the use of our University. I had only a borrowed copy, and had been disappointed in getting one from

[1] This letter is printed from the original in the possession of Archibald Cary Coolidge. Joseph Coolidge, Jr., was the son of Joseph and Elizabeth (Bulfinch) Coolidge, and was born in Boston Oct. 31, 1798. He graduated at Harvard College in 1817, was married to the favorite granddaughter of Thomas Jefferson in May, 1825, and died in his native city Dec. 14, 1879.—EDS.

England. Bosworth is a treasure of Anglo-Saxon learning. There is much in him valuable and new to me. He treads, indeed, in the footsteps of Dr. Hickes and his followers, in endeavoring to make it a language of learned construction, giving it the genders, numbers, declensions, conjugations, and other scaffoldings of the Greek and Latin, and encumbering it with difficulties even beyond theirs, whereas by simplifying and fixing its orthography we find it is old English, only one age senior to Piers Ploughman, and that it becomes like that the language we speak, as readily intelligible as other old English.

On your recommendation of Mr. Hilliard, and explanation of the means he had established of procuring books from the several book-marts of Europe, I accepted willingly his proposition to become the furnisher of books to our University. The enclosed letter contains a catalogue of the school books we shall immediately want, and of those of a higher order which will be recommended to our students. I am so unwilling to give him false expectations of the extent of our market, which might end in disappointment and loss, that I hope I am under the mark in what I recommend. It is impossible for us as yet to conjecture the number of students which may offer. There are many circumstances of detail in the local condition of the place, known to yourself and not communicable by letter. I have, therefore, taken the liberty of enclosing to you the letter for

him, and requesting you to deliver it in person, as you could answer the many enquiries he may be disposed to make, and possess him of the true state of things here. Possibly we may find it convenient to employ Mr. Hilliard to collect our library from the different countries of Europe, on a reasonable commission, we advancing the money. To preserve our exemption from duties he would be to be made merely our agent, the property of the books to be, for that purpose, vested in the University. On this my colleagues will be to decide. The amount, you know, we estimate at about 23,000 dollars.

I proposed to you to suggest to some editor of books in Boston the printing an octavo edition of Wilson's Ornithology, giving plates of octavo size also, with mere sketchings of the forms of the birds in a light way. I do not know whether the lithographic art is practised in Boston. If it is it would be quite equal to the object of this work, and so cheap, as I learn, as to cost little more than printing.

In a letter I received last evening from Mr. Appleton. our consul at Leghorn, a gentleman of intelligence, is the following paragraph: "I have been informed that there has been lately discovered at Athens, in a subterranean vault, a collection of 2,000 volumes or rolls of papyrus of Grecian authors, in a great state of perfection, with several statues of the highest order of sculpture, which it was probable was sunk by an earthquake, or was buried to save it from the barbarous hands of Mussulmen." I give

it in his own words, and am sorry it stands on the indefinite ground of "I have been informed." If true, we may recover what had been lost of Diodorus Siculus, Polybius, and Dion Cassius. I would rather, however, it should have been of Livy, Tacitus and Cicero.

We are in the hourly expectation of the arrival of the complement of our Professors, and shall open the University within one fortnight after it shall be known that they are landed on our shores. Our family is all well, and hold you in affectionate recollections. I join them sincerely in these, and pray you to be assured of my cordial friendship and respect.

TO JOSEPH COOLIDGE, JR.[1]

MONTICELLO, April 12, 1825.

DEAR SIR,—The arrival of our Professors from abroad has at length enabled us to get our University into operation. Their failure to arrive by the day we had announced for its commencement lost us for awhile many students who supposing, with most of us, from the length of time they had been out, that they must have perished, engaged themselves elsewhere. We began on the 7th of March with between thirty and forty. Since that they have been coming in, and are still coming almost daily. They are at this time sixty-five. I wish

[1] Printed from the original in the possession of Archibald Cary Coolidge.—EDS.

they may not get beyond one hundred this year, as I think it will be easier to get into an established course of order and discipline with that than with a greater number. Our English Professors give us perfect satisfaction. The choice has been most judiciously made. They are of very high order in their respective sciences, correct in their habits, encounter cheerfully whatever is novel to them, and are zealous to promote their respective schools. Our Professors of Chemistry, and Moral Philosophy are chosen from among our own fellow citizens, as will be our Professor of Law, not yet named. The first of these just arrived, and the second hourly expected. On his arrival the Faculty will form themselves into a board, and commence the exercise of their functions of order and discipline, for which the necessity is already apparent by the incipient irregularities of some of the youths.

Your kind dispositions toward our University will sometimes, I fear, be the source of trouble to you. We understand that the art of bellmaking is carried to greater perfection in Boston than elsewhere in the United States. We want a bell which can *generally* be heard at the distance of two miles, because this will ensure its being *always* heard at Charlottesville. As we wish it to be sufficient for this, so we wish it not more so, because it will add to its weight, price, and difficulty of management. Will you be so good as to enquire what would be the weight and price of such a bell, and inform me of it?

I have engaged Mr. Hilliard as agent for the University in the purchase of its library; and the sum to be put into his hands being considerable (15,000 dollars), I have required security from him, and taken the liberty of referring him to yourself and Mr. Ticknor for judging and certifying to me its sufficiency.

The books you have been so kind as to present to the University have been received and were opened yesterday. They came in good condition, were peculiarly well bound, and entirely acceptable. I think there was but one which proved a duplicate. Permit me in the name of the University and Visitors to return you their thanks for this handsome donation.

The object of the welcome visit we expect from you soon is such as would render the presence of your parents, Mr. and Mrs. Coolidge, peculiarly gratifying. I am a stranger to their ages and condition of health, and how far these would admit of such a journey, and, therefore, I must only say that they would be received with the most sincere cordiality; so, if any other of your friends, led by affection to you or by curiosity, should be willing to accompany you, it would give us great pleasure.

I send you a copy of our regulations, and pray you to be assured of my affectionate attachment and great respect.

TO ELLEN W. COOLIDGE.[1]

MONTICELLO, August 27, 1825.

Your affectionate letter, my dear Ellen, of the 1st inst. came to hand in due time. The assurances of your love, so feelingly expressed, were truly soothing to my soul, and none were ever met with warmer sympathies. We did not know until you left us what a void it would make in our family. Imagination had illy sketched its full measure to us; and, at this moment, everything around serves but to remind us of our past happiness, only consoled by the addition it has made to yours. Of this we are abundantly assured by the most excellent and amiable character to which we have committed your future well-being, and by the kindness with which you have been received by the worthy family into which you are now engrafted. We have no fear but that their affections will grow with their growing knowledge of you, and the assiduous cultivation of these becomes the first object in importance to you. I have no doubt you will find also the state of society there more congenial with your mind than the rustic scenes you have left although these do not want their points of endearment. Nay, one single circumstance changed, and their scale would hardly be the lightest. One fatal stain deforms what nature had bestowed on us of her fairest gifts.

[1] This letter is printed from the original in the possession of Archibald Cary Coolidge.—EDS.

I am glad you took the delightful tour which you describe in your letter. It is almost exactly that which Mr. Madison and myself pursued in May and June, 1791. Setting out from Philadelphia, our course was to New York, up the Hudson to Albany, Troy, Saratoga, Fort Edward, Fort George, Lake George. Ticonderoga, Crown Point, penetrated into Lake Champlain, returned the same way to Saratoga, thence crossed the mountains to Bennington, Northampton, along Connecticut River to its mouth, crossed the Sound into Long Island, and along its northern margin to Brooklyn, re-crossed to New York, and returned. But from Saratoga till we got back to Northampton was then mostly desert. Now it is what thirty-four years of free and good government have made it. It shows how soon the labor of men would make a paradise of the whole earth, were it not for misgovernment, and a diversion of all his energies from their proper object—the happiness of man,—to the selfish interests of kings, nobles, and priests.

Our University goes on well. We have passed the limit of 100 students some time since. As yet it has been a model of order and good behavior, having never yet had occasion for the exercise of a single act of authority. We studiously avoid too much government. We treat them as men and gentlemen, under the guidance mainly of their own discretion. They so consider themselves, and make it their pride to acquire that character for their institution. In

short, we are as quiet on that head as the experience of six months only can justify. Our professors, too, continue to be what we wish them. Mr. Gilmer accepts the Law chair, and all is well.

My own health is what it was when you left me. I have not been out of the house since, except to take the turn of the Roundabout twice; nor have I any definite prospect when it will be otherwise.

I shall not venture into the region of small news, of which your other correspondents of the family are so much better informed. I am expecting to hear from Mr. Coolidge on the subject of the clock for the Rotunda. Assure him of my warmest affections and respect, and pray him to give you ten thousand kisses for me, and they will still fall short of the measure of my love to you. If his parents and family can set any store by the esteem and respect of a stranger, mine are devoted to them.

TO JOSEPH COOLIDGE, JR.[1]

MONTICELLO, October 13, [1825].

DEAR SIR,—It is so long since I ought to have written to you that I am ashamed to quote your last date. The information particularly which you were so kind as to obtain and furnish me as to the cost of a college clock should have been answered; but finding the price you mentioned far beyond our ex-

[1] Printed from the original in the possession of Archibald Cary Coolidge.—EDS.

pectation and funds, I took time to have other enquiries made. These, however, did not result in bringing the cost more within our means; on the contrary, 40 cents the pound were asked for a bell in Philadelphia, instead of 35, the price with you. We are obliged, therefore, to do without, until our funds are improved; and this ought to have been said to you sooner.

The news of our neighborhood can hardly be interesting to you, except what may relate to our University, in which you are so kind as to take an interest. And it happens that a serious incident has just taken place there, which I will state to you the rather, as of the thousand versions which will be given not one will be true. My position enables me to say what is so, but with the most absolute concealment from whence it comes; regard to my own peace requiring that,—except with friends whom I can trust and wish to gratify with the truth.

The University had gone on with a degree of order and harmony which had strengthened the hope that much of self government might be trusted to the discretion of the students of the age of 16 and upwards, until the 1st instant. In the night of that day a party of fourteen students, animated first with wine, masked themselves so as not to be known, and turned out on the lawn of the University, with no intention, it is believed, but of childish noise and uproar. Two professors hearing it went out to see what was the matter. They were received with

insult, and even brick-bats were thrown at them. Each of them seized an offender, demanded their names (for they could not distinguish them under their disguise), but were refused, abused, and the culprits calling on their companions for a rescue, got loose, and withdrew to their chambers. The Faculty of Professors met the next day, called the whole before them, and in address, rather harsh, required them to denounce the offenders. They refused, answered the address in writing and in the rudest terms, and charged the Professors themselves with false statements. Fifty others, who were in their rooms, no ways implicated in the riot and knowing nothing about it, immediately signed the answer, making common cause with the rioters, and declaring their belief of their assertions in opposition to those of the Professors. The next day chanced to be that of the meeting of the Visitors; the Faculty sent a deputation to them, informing them of what had taken place. The Visitors called the whole body of students before them, exhorted them to make known the persons masked, the innocent to aid the cause of order by bearing witness to the truth, and the guilty to relieve their innocent brethren from censures which they were conscious that themselves alone deserved. On this the fourteen maskers stepped forward and avowed themselves the persons guilty of whatever had passed, but denying that any trespass had been committed. They were desired to appear before the Faculty, which they did. On the

evidence resulting from this enquiry, three, the most culpable, were expelled; one of them, moreover, presented by the grand jury for civil punishment (for it happened that the district court was then about to meet). The eleven other maskers were sentenced to suspensions or reprimands, and the fifty who had so gratuitously obtruded their names into the offensive paper retracted them, and so the matter ended.

The circumstances of this transaction enabled the Visitors to add much to the strictness of their system as yet new. The students have returned into perfect order under a salutary conviction they had not before felt that the laws will in future be rigorously enforced, and the institution is strengthened by the firmness manifested by its authorities on the occasion. It cannot, however, be expected that all breaches of order can be made to cease at once, but from the vigilance of the Faculty and energy of the civil power their restraint may very soon become satisfactory. It is not perceived that this riot has been more serious than has been experienced by other seminaries; but, whether more or less so, the exact truth should be told, and the institution be known to the public as neither better nor worse than it really is.

All here are well, except myself, and I had sensibly improved, insomuch as to be able to ride two or three miles a day in a carriage and on our level Roundabouts. But going backwards and forwards on the rough roads to the University for five days succes-

sively has brought on me again a great degree of sufferance, which some days of rest and recumbence will, I hope, relieve. My dear Ellen may be told that at the head of the expelled, as of the riot, was W. M. C., expelled from two other seminaries before. A second was an exile from every school he had ever been at, who had entered and paid his fees only that morning. The third, a worthy young man, not of her acquaintance, whom all lamented, Visitors, Professors, and students, but he had unfortunately too much signalized himself in this affair. Present to her all the blessings of an affectionate grandfather, and be assured of the warmth and sincerity of his attachment and respect to you.

TO ELLEN W. COOLIDGE.[1]

MONTICELLO, November 14, 1825.

MY DEAR ELLEN,—In my letter of October 13 to Mr. Coolidge, I gave an account of the riot we had had at the University and of its termination. You will both, of course, be under anxiety till you know how it has gone off. With the best effects in the world, having let it be understood from the beginning that we wished to trust very much to the discretion of the students themselves for their own government. With about four-fifths of them this did

[1] This letter is printed from the original in the possession of Archibald Cary Coolidge.—EDS.

well, but there were about fifteen or twenty bad subjects who were disposed to try whether our indulgence was without limit. Hence the licentious transaction of which I gave an account to Mr. Coolidge; but when the whole mass saw the serious way in which that experiment was met, the Faculty of Professors assembled, the Board of Visitors coming forward in support of that authority, a grand jury taking up the subject, four of the most guilty expelled, the rest reprimanded, severer laws enacted and a rigorous execution of them declared in future, —it gave them a shock and struck a terror, the most severe as it was less expected. It determined the well-disposed among them to frown upon everything of the kind hereafter, and the ill-disposed returned to order from fear, if not from better motives. A perfect subordination has succeeded, entire respect towards the professors, and industry, order, and quiet the most exemplary, has prevailed ever since. Every one is sensible of the strength which the institution has derived from what appeared at first to threaten its foundation. We have no further fear of anything of the kind from the present set, but as at the next term their numbers will be more than doubled by the accession of an additional band, as unbroken as these were, we mean to be prepared, and to ask of the legislature a power to call in the civil authority in the first instant of disorder, and to quell it on the spot by imprisonment and the same legal coercions provided against disorder generally com-

mitted by other citizens, from whom, at their age, they have no right to distinction.

We have heard of the loss of your baggage, with the vessel carrying it, and sincerely condole with you on it. It is not to be estimated by its pecuniary value, but by that it held in your affections,—the documents of your childhood, your letters, correspondencies, notes, books, etc., etc., all gone! and your life cut in two, as it were, and a new one to begin, without any records of the former. John Hemmings was the first who brought me the news. He had caught it accidentally from those who first read the letter from Colonel Peyton announcing it. He was *au desespoir!* That beautiful writing desk he had taken so much pains to make for you! everything else seemed as nothing in his eye, and that loss was everything. Virgil could not have been more afflicted had his Aeneid fallen a prey to the flames. I asked him if he could not replace it by making another. No; his eyesight had failed him too much, and his recollection of it was too imperfect. It has occurred to me, however, that I can replace it, not, indeed, to you, but to Mr. Coolidge, by a substitute, not claiming the same value from its decorations, but from the part it has *borne* in our history and the events with which it has been associated. I received a letter from a friend in Philadelphia lately, asking information of the house, and room of the house there, in which the Declaration of Independence was written, with a view to future celebra-

tions of the Fourth of July in it, another enquiring whether a paper given to the Philosophical Society there, as a rough draught of that Declaration was genuinely so. A society is formed there lately for an annual celebration of the advent of Penn to that place. It was held in his ancient mansion, and the chair in which he actually sat when at his writing table was presented by a lady owning it, and was occupied by the president of the celebration. Two other chairs were given them, made of the elm under the shade of which Penn had made his first treaty with the Indians. If then things acquire a superstitious value because of their connection with particular persons, surely a connection with the great Charter of our Independence may give a value to what has been associated with that; and such was the idea of the enquirers after the room in which it was written. Now I happen still to possess the writing-box on which it was written. It was made from a drawing of my own by Ben. Randall, a cabinetmaker in whose house I took my first lodgings on my arrival in Philadelphia in May, 1776, and I have used it ever since. It claims no merit of particular beauty. It is plain, neat, convenient, and, taking no more room on the writing table than a moderate quarto volume, it yet displays itself sufficiently for any writing. Mr. Coolidge must do me the favor of accepting this. Its imaginary value will increase with years, and if he lives to my age, or another half-century, he may see it carried in the procession of

our nation's birthday, as the relics of the saints are in those of the Church. I will send it through Colonel Peyton, and hope with better fortune than that for which it is to be a substitute.[1]

I remark what you say in your letter to your mother relative to Mr. Willard and our University clock. Judging from that that he is the person whom Mr. Coolidge would recommend, and having received from Dr. Waterhouse a very strong recommendation of him, you may assure the old gentleman from me that he shall have the making of it. We have lately made an important purchase of lands, amounting to 7000 dollars, and the governernment is taking from us, under their old and new tariff, 2700 dollars duty on the marble caps and bases of the portico of our rotunda, of ten columns only. These things try our funds for the moment. At the end of the year we shall see how we stand, and I expect we may be able to give the final order for the clock by February.

I want to engage you as my agent at Boston for certain articles not to be had here, and for such only; but it will be on the indispensable condition that you keep as rigorous an account of dollars and cents

[1] This interesting relic was exhibited at the Centennial Celebration in Boston, July 4, 1876. (See Winthrop's Addresses and Speeches, vol. iii. pp. 378, 379.) Subsequently it was given to the United States by the heirs of Mr. Coolidge (see Proceedings held in the Senate and House of Representatives, April 23, 1880, on the Occasion of the Presentation of Thomas Jefferson's Writing-Desk to the United States by the Heirs of the late Joseph Coolidge, Jr.).—Eds.

as old Yerragan, our neighbor, would do. This alone can induce friends to ask services freely, which would otherwise be the asking of presents, and amount to a prohibition. We should be very glad occasionally to get small supplies of the fine dumb cod-fish to be had at Boston, and also of the tongues and sounds of the cod. This selection of the articles I trouble for is not of such as are better there than here; for on that ground we might ask for every thing from thence, but such only as are not to be had here at all. Perhaps I should trespass on Mr. Coolidge for one other article. We pay here two dollars a gallon for bad French brandy. I think I have seen in Degrand's price current Marseilles brandy, from Dodge and Oxnard, advertised good at one dollar; and another kind called Seignettes, which I am told is good Cognac, at one dollar and 25 cents. I will ask of you then a supply of a kental of good dumb fish, and about 20 or 30 lbs. of tongues and sounds; and of Mr. Coolidge a 30 gallon cask of Dodge and Oxnard's Marseilles brandy, if tolerably good at one dollar or thereabouts, but double cased, to guard against spoliation. Knowing nothing of the prices of the fish, I will at a venture desire Colonel Peyton to remit 60 dollars to Mr. Coolidge immediately, and any little difference between this and the actual cost either way may stand over to your next account. We should be the better perhaps of your recipe for dressing both articles.

I promised Mr. Ticknor to inform him at times

how our University goes on. I shall be glad if you will read to him that part of this letter which respects it, presuming Mr. Coolidge may have communicated to him the facts of my former letter to him. These facts may be used ad libitum, only keeping my name out of sight. Writing is so irksome to me, especially since I am obliged to do it in a recumbent posture, that I am sure Mr. Ticknor will excuse my economy in this exercise. To you perhaps I should apologize for the want of it on this occasion. The family is well. My own health changes little. I ride two or three miles in a carriage every day. With my affectionate salutations to Mr. Coolidge, be assured yourself of my tender and constant love.

TO ELLEN W. COOLIDGE.[1]

MONTICELLO, Mar. 19, 1826.

MY DEAR ELLEN,—Your letter of the 8th was received the day before yesterday, and as the season for engrafting is passing rapidly by I will not detain the apple-cuttings for Mr. Gray (until I may have other matter for writing a *big* letter to you), but I send a dozen cuttings, as much as a letter can protect, by our first mail, and wish they may retain their vitality until they reach him. They

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are called the Taliaferro apple, being from a seedling tree discovered by a gentleman of that name near Williamsburg, and yield unquestionably the finest cider we have ever known, and more like wine than any liquor I have ever tasted which was not wine. If it is worth reminding me of the ensuing winter, I may send a larger supply, and in better time, through Col. Peyton.

Our brandy, fish, tongues, and sounds are here, and highly approved. The piano forte is also in place, and Mrs. Carey *happening* here has exhibited to us its full powers, which are indeed great. Nobody slept the first night, nor is the tumult yet over on this the third day of its emplacement. These things will draw trouble on you; for we shall no longer be able to drink Raphael's *imitation brandy* at two dollars the gallon, nor to be without the luxury of the fish, and especially the tongues and sounds, which we consider as a great delicacy.

All here are well, and growing in their love to you, and none so much as the oldest, who embraces in it your other self, so worthy of all our affections, and so entirely identified in them with yourself.

TO JOSEPH COOLIDGE, JR.[1]

MONTICELLO, June 4, 1826.

DEAR SIR,—You have heretofore known that the ability of the University to meet the necessary expenses of a bell and clock depended on the remission by Congress of the duties on the marble bases and capitals used in our buildings, a sum of nearly 3000 dollars. The remission is granted, and I am now authorized to close with Mr. Willard for the undertaking of the clock, as proposed in your letter of Aug. 25. I must still, however, ask your friendly intermediacy, because it will so much abridge the labors of the written correspondence; for there will be many minutiæ which your discretion can direct, in which we have full confidence, and shall confirm as if predirected. I have drawn up the material instructions on separate papers, which put into Mr. Willard's hands will, I trust, leave little other trouble for you. We must avail ourselves of his offer (expressed in the same letter) to come himself and set it up, allowing the compensation, which, I am sure, he will make reasonable. The dial-plate had better be made at Boston, as we can prepare our aperture for it, of sixty inches, with entire accuracy. We wish him to proceed with all practicable dispatch, and are ready to make him whatever advance he usually requires; and we would rather make it immediately,

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as we have a sum of money in Boston which it would be more convenient to place in his hands at once than to draw it here and have to remit it again to Boston. If it would be out of his line to engage for the bell also, be so good as to put it into any hands you please, and to say what we should advance for that also.

The art of boring for water to immense depths we know is practised very much in the salt springs of the Western country, and I have understood that it is habitually practised in the Northern States generally for ordinary water. We have occasion for such an artist at our University, and myself and many individuals round about us would gladly employ one. If they abound with you I presume we could get one to come on and engage in the same line here. I believe he would find abundant employment; but should it be otherwise, or not to his mind, we could, by paying his expenses coming and returning, and placing him at home as we found him, save him from any loss by the experiment. Will you be so good as to make enquiry for such a person, to know the terms of his work, and communicate them to me, so that we may form a general idea of the cost of this method of supply. I could then give him immediate information of the probabilities and prospects here. I am anxious myself on behalf of the University, as well as the convenience it will afford to myself.

Our University is going on well. The students have sensibly improved since the last year in habits of order and industry. Occasional instances of insubordination have obliged us from time to time to strengthen our regulations to meet new cases. But the most effectual instrument we have found to be the civil authority. The terrors of indictment, fine, imprisonment, binding to the good behavior, etc., have the most powerful effect. None have yet incurred them, but they have been sternly held up to their view. These civil coercions want a little accommodation to our organization, which we shall probably obtain, and I suppose the more easily as at the age of sixteen it is high time for youth to begin to learn and to practise the duties of obedience to the laws of their country. It will make an important item in the Syllabus of the Moral Professor, and be considered as forming a standing branch in the system of education established here. The competition among our hotel keepers has made them too obsequious to the will of the students. We must force them to become auxiliaries towards the preservation of order, rather than subservients to their irregularities. We shall continue under this evil until the renewal of their leases shall place them in our power, which takes place but annually. Our present number are over 170, and growing weekly; and on the opening of the Law School, which is fixed to the first of July, the dormitories now vacant will

be all filled. These will accommodate 216, and several large houses are building in Charlottesville for private boarding, to meet the demand expected at the next commencement. Ever and affectionately yours.

Vice-Presidents of Jefferson's Two Administrations

Aaron Burr (1756-1836) was born in Newark, N. J. He was the son of a New England clergyman and grandson of Jonathan Edwards. As early as 1775 he joined the army, his first enterprise being with Arnold in his expedition against Quebec. In 1776 he joined Washington's forces in the capacity of Major, but withdrew shortly to become an aide to General Putnam, then engaged in the defense of New York. He was a member of the New York Legislature in 1784 and 1798, and became Attorney-General of that State in 1789. From 1791 to 1797 he was one of the most prominent Anti-Federalist leaders in the Senate. In May, 1800, he was nominated with Jefferson for President. Each candidate received seventy-three votes and the choice was decided by Congress, which resulted in giving to Aaron Burr the office of Vice-President. He mortally wounded Alexander Hamilton in a duel on July 12, 1804, and the following year was supposed to have started the project of establishing a dynasty through a conjunction of Western territory of the United States with Mexico. For this alleged scission he was tried in 1807 at Richmond, but was acquitted after a long legal fight in which Jefferson was much concerned. For several years after this trial he lived in Europe. In 1812 he returned to New York to resume his law practice. By his first wife, the widow of General Augustine Prevost, he had a beautiful and accomplished daughter, Theodosia, who married General Joseph Allston, and perished at sea in 1812. At the age of seventy-eight, Aaron Burr married his second wife, Mme. Jumel. (*Photogravure from the Original Painting by James Sharpless, in Independence Hall, Philadelphia.*)

George Clinton (1739-1812) was born in Ulster County, New York. He practiced law with great success and became head of the Whig party in the Colonial Assembly of his native State. In 1775 he was elected to the Continental Congress, and voted for the Declaration of Independence, though his name does not appear signed to that instrument on account of his having been called away to take command of a brigade of New York militia. Chosen Governor of New York in 1777, he held the office by successive re-elections for eighteen years. In 1788 he was made President of the Convention called to consider the Federal Constitution, which he opposed, as he considered it gave too much power to the Central Government. Afterwards he became leader of the Republican faction in New York, and at the close of Washington's first term, in 1792, received fifty electoral votes for Vice-President. But it was not until 1804 that he was actually elected to that office, when Jefferson was re-elected to the Presidency. In 1808 he was again chosen for Vice-President under the first administration of James Madison. While officiating as President of the Senate (by virtue of his office as Vice-President) he gave the deciding vote against the recharter of the United States Bank in 1811. (*Photogravure from the Original Painting.*)

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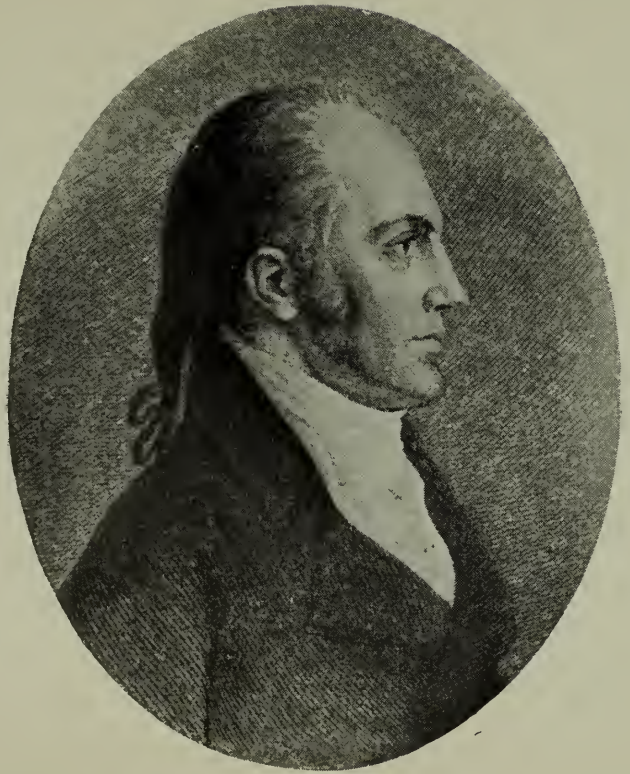

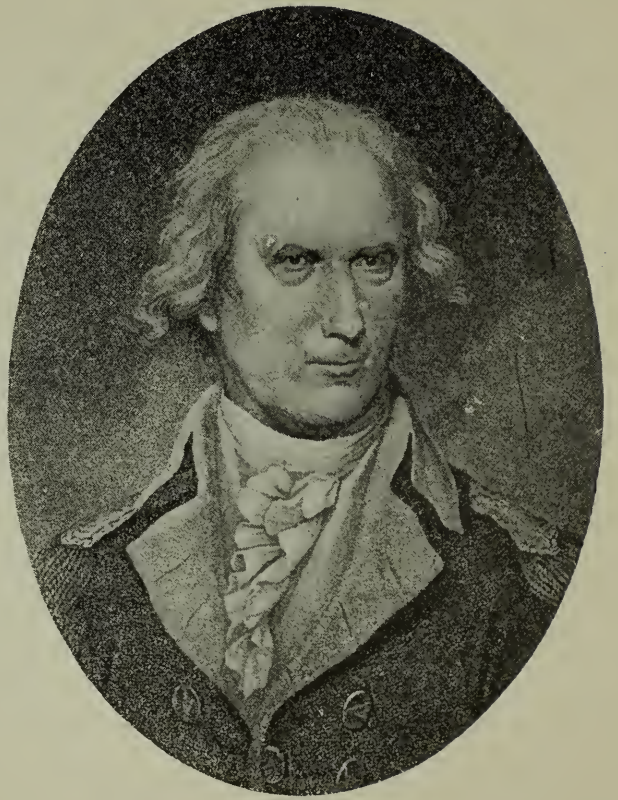

AN ESSAY

Towards Facilitating Instruction

in the

ANGLO-SAXON

and

Modern Dialects of the English Language

For the Use of the University of Virginia.

BY

THOMAS JEFFERSON.

Introductory Note.—Jefferson's "Essay on Anglo-Saxon" is reproduced here for the first time since it was originally printed in 1851 by order of the Board of Trustees of the University of Virginia—twenty-five years after his death. Copies of this pamphlet are very rare, and the publication of the "Essay" in this volume is due to the courtesy of Dr. Charles W. Kent, who placed the copy belonging to the University of Virginia at the disposal of the editors of the present Edition of Jefferson's Writings. Jefferson sent his "Essay" to Herbert Croft, an eminent Englishman who was preparing an etymological dictionary, and the letter to him which precedes the "Essay" was no doubt intended to take the place of the customary preface. It may be of interest to note that Jefferson was one of the first, if not the pioneer, in this country to advocate the study of Anglo-Saxon and incorporate it in the college curriculum.

TO HERBERT CROFT, ESQ., LL. B., LONDON.

MONTICELLO, October 30th, 1798.

SIR,—The copy of your printed letter on the English and German languages, which you have been so kind as to send me, has come to hand; and I pray you to accept of my thanks for this mark of your attention. I have perused it with singular pleasure, and, having long been sensible of the importance of a knowledge of the Northern languages to the understanding of English, I see it, in this letter, proved and specifically exemplified by your collations of the English and German. I shall look with impatience for the publication of your "English and German Dictionary." Johnson, besides the want of precision in his definitions, and of accurate distinction in passing from one shade of meaning to another of the same word, is most objectionable in his derivations. From a want probably of intimacy with our own language while in the Anglo-Saxon form and type, and of its kindred languages of the North, he has a constant leaning towards Greek and Latin for English etymon. Even

Skinner has a little of this, who, when he has given the true Northern parentage of a word, often tells you from what Greek and Latin source it might be derived by those who have that kind of partiality. He is, however, on the whole, our best etymologist, unless we ascend a step higher to the Anglo-Saxon vocabulary; and he has set the good example of collating the English word with its kindred word in the several Northern dialects, which often assist in ascertaining its true meaning.

Your idea is an excellent one, in producing authorities for the meaning of words, "to select the prominent passages in our best writers, to make your dictionary a general index to English literature, and thus intersperse with verdure and flowers the barren deserts of Philology." And I believe with you that "wisdom, morality, religion, thus thrown down, as if without intention, before the reader, in quotations, may often produce more effect than the very passages in the books themselves."—"that the cowardly suicide, in search of a strong word for his dying letter, might light on a passage which would excite him to blush at his want of fortitude, and to forego his purpose;"—"and that a dictionary with examples at the words may, in regard to every branch of knowledge, produce more real effect than the whole collection of books which it quotes." I have sometimes myself used Johnson as a Repertory, to find favorite passages which I wished to recollect, but too rarely with success.

I was led to set a due value on the study of the Northern languages, and especially of our Anglo-Saxon, while I was a student of the law, by being obliged to recur to that source for explanation of a multitude of law-terms. A preface to Fortescue on Monarchies, written by Fortescue Aland, and afterwards premised to his volume of Reports, develops the advantages to be derived to the English student generally, and particularly the student of law, from an acquaintance with the Anglo-Saxon; and mentions the books to which the learner may have recourse for acquiring the language. I accordingly devoted some time to its study, but my busy life has not permitted me to indulge in a pursuit to which I felt great attraction. While engaged in it, however, some ideas occurred for facilitating the study by simplifying its grammar, by reducing the infinite diversities of its unfixed orthography to single and settled forms, indicating at the same time the pronunciation of the word by its correspondence with the characters and powers of the English alphabet. Some of these ideas I noted at the time on the blank leaves of my Elstob's Anglo-Saxon Grammar: but there I have left them, and must leave them, unpursued, although I still think them sound and useful. Among the works which I proposed for the Anglo-Saxon student, you will find such literal and verbal translations of the Anglo-Saxon writers recommended, as you have given us of the German in your printed letter.

Thinking that I cannot submit those ideas to a better judge than yourself, and that if you find them of any value you may put them to some use, either as hints in your dictionary, or in some other way, I will copy them as a sequel to this letter, and commit them without reserve to your better knowledge of the subject. Adding my sincere wishes for the speedy publication of your valuable dictionary, I tender you the assurance of my high respect and consideration.

THOMAS JEFFERSON.

ESSAY ON THE ANGLO-SAXON LANGUAGE.

The importance of the Anglo-Saxon dialect toward a perfect understanding of the English language seems not to have been duly estimated by those charged with the education of youth; and yet it is unquestionably the basis of our present tongue. It was a full-formed language; its frame and construction, its declension of nouns and verbs, and its syntax were peculiar to the Northern languages, and fundamentally different from those of the South. It was the language of all England, properly so called, from the Saxon possession of that country in the sixth century to the time of Henry III. in the thirteenth, and was spoken pure and unmixed with any other. Although the Romans had been in possession of that country for nearly five centuries from the time of Julius Cæsar, yet it was a military possession chiefly, by their soldiery alone, and with dispositions intermutually jealous and unamicable. They seemed to have aimed at no lasting settlements there, and to have had little familiar mixture with the native Britons. In this state of connection there would probably be little incorporation of the Roman into the native lan-

guage, and on their subsequent evacuation of the island its traces would soon be lost altogether. And had it been otherwise, these innovations would have been carried with the natives themselves when driven into Wales by the invasion and entire occupation of the rest of the Southern portion of the island by the Anglo-Saxons.

The language of these last became that of the country from that time forth, for nearly seven centuries; and so little attention was paid among them to the Latin, that it was known to a few individuals only as a matter of science, and without any chance of transfusion into the vulgar language. We may safely repeat the affirmation, therefore, that the pure Anglo-Saxon constitutes at this day the basis of our language. That it was sufficiently copious for the purposes of society in the existing condition of arts and manners, reason alone would satisfy us from the necessity of the case. Its copiousness, too, was much favored by the latitude it allowed of combining primitive words so as to produce any modification of idea desired. In this characteristic it was equal to the Greek, but it is more especially proved by the actual fact of the books they have left us in the various branches of history, geography, religion, law, and poetry. And although since the Norman conquest it has received vast additions and embellishments from the Latin, Greek, French, and Italian languages, yet these are but engraftments on its idiomatic stem; its original structure

and syntax remain the same, and can be but imperfectly understood by the mere Latin scholar. Hence the necessity of making the Anglo-Saxon a regular branch of academic education. In the sixteenth and seventeenth centuries it was assiduously cultivated by a host of learned men. The names of Lambard, Parker, Spelman, Wheeloc, Wilkins, Gibson, Hickes, Thwaites, Somner, Benson, Mareschal, Elstob, deserve to be ever remembered with gratitude for the Anglo-Saxon works which they have given us through the press, the only certain means of preserving and promulgating them. For a century past this study has been too much neglected. The reason of this neglect, and its remedy, shall be the subject of some explanatory observations. These will respect—I. The Alphabet. II. Orthography. III. Pronunciation. IV. Grammar.

I. The Alphabet.

The Anglo-Saxon alphabet, as known to us in its printed forms, consists of twenty-six characters, about the half of which are Roman, the others of forms peculiarly Saxon. These, mixed with the others, give an aspect to the whole rugged, uncouth, and appalling to an eye accustomed to the roundness and symmetry of the Roman character. This is a first discouragement to the English student. Next, the task of learning a new alphabet, and the time and application necessary to render it easy and

familiar to the reader, often decides the doubting learner against an enterprise so apparently irksome.

The earliest remains extant of Saxon writing are said to be of the seventh century; and the latest of the thirteenth. The black letter seems to have been introduced by William the Conqueror, whose laws are written in Norman French, and in that letter. The full alphabet of Roman characters was first used about the beginning of the sixteenth century. But the expression of the same sounds, by a different character did not change these sounds, nor the language which they constituted; did not make the language of Alfred a different one from that of Piers Ploughman, of Chaucer, Douglas, Spenser, and Shakespeare, any more than the second revolution, which substituted the Roman for the English black letter, made theirs a different language from that of Pope and Bolingbroke; or the writings of Shakespeare, printed in black letter, different from the same as now done in Roman type. The life of Alfred, written in Latin and in Roman character by Asser, was reprinted by Archbishop Parker in Anglo-Saxon letters. But it is Latin still, although the words are represented by characters different from those of Asser's original. And the extracts given us by Dr. Hickes from the Greek Septuagint, in Anglo-Saxon characters, are Greek still, although the Greek sounds are represented by other types. Here then I ask, why should not this Roman character, with which we are all familiar,

be substituted now for the Anglo-Saxon, by printing in the former the works already edited in the latter type? and also the manuscripts still inedited? This may be done letter for letter, and would remove entirely the first discouraging obstacle to the general study of the Anglo-Saxon.

II. Orthography.

In the period during which the Anglo-Saxon alphabet was in use, reading and writing were rare arts. The highest dignitaries of the church subscribed their marks, not knowing how to write their names. Alfred himself was taught to read in his thirty-sixth year only, or, as some editions of Asser say, in his thirty-ninth. Speaking of learning in his Preface to the Pastoral of Gregory, Alfred says, "Swa clean hi was oth-fallen on Angelkin that swithe few were on behinan Humber the hior thenung cuthon understandan on Englisc, oth furthon an errand y-write of Latin on Englisc areckon. And I ween that not many beyondan Humber nay aren; swa few hior weron that I furthon ane on lepne nay may y-thinkan be-Suthan Thames tha tha I to ric fang." Or, as literally translated into later English by Archbishop Parker, "So clean was it fallen amongst the English nation, that very few were on this side Humber which their service could understand in English, or else furthermore an epistle from Latin into English to declare.

And I ween that not many beyond Humber were not. So few of them were that I also one only may not remember by South Tamise when as I to reign undertook." In this benighted state, so profoundly illiterate, few read at all, and fewer wrote: and the writer having no examples of orthography to recur to, thinking them indeed not important, had for his guide his own ideas only of the power of the letters, unpractised and indistinct as they might be. He brought together, therefore, those letters which he supposed must enter into the composition of the sound he meant to express, and was not even particular in arranging them in the order in which the sounds composing the word followed each other. Thus, *birds* was spelt brides; *grass*, gaers; *run*, yrnan; *cart*, crætt; *fresh*, fersh. They seemed to suppose, too, that a final vowel was necessary to give sound to the consonant preceding it, and they used for that purpose any vowel indifferently. A *son* was suna, sune, sunu; *mæra*, mære, mæro, mæru; *fines*, limites; *ge*, *ye*, *y*, *i*, are various spellings of the same prefix. The final *e* mute in English is a remain of this, as in *give*, *love*, *curse*.

The vowels were used indiscriminately also for every vowel sound. Thus,

The comparative ended in *ar*, *er*, *ir*, *or*, *ur*, *yr*.
The superlative ended in *ast*, *est*, *ist*, *ost*, *ust*, *yst*.
The participle present ended in *and*, *end*, *ind*, *ond*, *und*, *ynd*.
The participle past ended in *ad*, *ed*, *id*, *od*, *ud*, *yd*.
Other examples are, betweox, betwix, betwox, betwux. betwyx, for *betwixt*; egland, igland, ygland, for *island*.

Of this promiscuous use of the vowels we have also abundant remains still in English. For according to the powers given to our letters we often use them indifferently for the same sound, as in *bulwark*, *assert*, *stir*, *work*, *lurk*, *myrtle*. The single word *many*, in Anglo-Saxon, was spelt, as Dr. Hickes has observed, in twenty different ways; to wit, mænigeo, mænio, mæniu, menio, meniu, mænigo, mænego, manige, menigo, manegeo, mænegeo, menegeo, mænygeo, menigeo, manegu, mænigu, menegu, menego, menigu, manigo. To prove, indeed, that every one spelt according to his own notions, without regard to any standard, we have only to compare different editions of the same composition. Take, for example, Alfred's Preface to Gregory's Pastoral before cited, as published in different editions:

Swa clæne hio wæs othfeallenu on angelkynne thætte swythe feawe
heo othfeallen angelcynne that feawa
fewa

wæron behionan Humbre the hiora thenunga cuthen understandan on Englisc
beheonan hira theninga cuthon understondan Ænglisc
thenunge

oththe furthum an ærendgewrit of Lædene on Englisc areccan & ic wene
furthon ærendgewryt Ledene Ænglisc areccean

thaette nauht monige begeondan Humbre næren.
that noht begiondan nearon.
naht næron.

This unsettled orthography renders it necessary to swell the volume of the dictionaries, by giving to each word as many places in order of the alphabet

as there are different modes of spelling it; and in proportion as this is omitted, the difficulty of finding the words increases on the student.

Since, then, it is apparent that the Anglo-Saxon writers had established no particular standard of orthography, but each followed arbitrarily his own mode of combining the letters, we are surely at liberty equally to adopt any mode which, establishing uniformity, may be more consonant with the power of the letters, and with the orthography of the present dialect, as established by usage. The latter attention has the advantage of exhibiting more evidently the legitimate parentage of the two dialects.

III. Pronunciation.

To determine what that was among the Anglo-Saxons, our means are as defective as to determine the long-agitated question what was the original pronunciation of the Greek and Latin languages. The presumption is certainly strong that in Greece and Italy, the countries occupied by those languages, their pronunciation has been handed down, by tradition, more nearly than it can be known to other countries: and the rather, as there has been no particular point of time at which those ancient languages were changed into the modern ones occupying the same grounds. They have been gradually worn down to their present forms by time, and changes of modes and circumstances. In like

manner there has been no particular point of time at which the Anglo-Saxon has been changed into its present English form. The languages of Europe have generally, in like manner, undergone a gradual metamorphosis, some of them in name as well as in form. We should presume, therefore, that in those countries of Great Britain which were occupied earliest, longest, and latest by the Saxon immigrants, the pronunciation of their language has been handed down more nearly than elsewhere; and should be searched for in the provincial dialects of those countries. But the fact is, that these countries have divaricated in their dialects, so that it would be difficult to decide among them which is the most genuine. Under these doubts, therefore, we may as well take the pronunciation now in general use as the legitimate standard, and that form which it is most promotive of our object to infer the Anglo-Saxon pronunciation. It is, indeed, the forlorn hope of all aim at their probable pronunciation; for were we to regard the powers of the letters only, no human organ could articulate their uncouth jumble. We will suppose, therefore, the power of the letters to have been generally the same in Anglo-Saxon as now in English; and to produce the same sounds we will combine them, as nearly as may be, conformably with the present English orthography. This is, indeed, a most irregular and equivocal standard; but a conformity with it will bring the two dialects nearer together in sound and semblance,

and facilitate the transition from the one to the other more auspiciously than a rigorous adherence to any uniform system of orthography which speculation might suggest.

I will state some instances only (referring to Dr. Hickes for more) of the unskilful and inconsistent uses of the letters by the Anglo-Saxons, in proof of the necessity of changing them, to produce, to a modern reader, the very sounds which we suppose them to have intended by their confused combinations. Their vowels, promiscuously used, as before observed, must all be freely changed to those used in corresponding words in English orthography.

b sounds as *v*, as in ober, *over*.
c " *g*, " fic, *fig*.
c " *j*, " ceole, *jowl*.
c " *k*, " tacn, *token;* bacen, *baked;* cind, *kind*.
c " *s*, " cedar, *cedar*.
c " *ch*, " ceak, *cheek*.
cg " *dge*, " bricg, *bridge*.
d " *th*, " worden, or worthen; mid or mith, *with*
f " *v*, " delfan, *to delve;* yfel, *evil*.
v " *f*, " vot, *foot*.
g " *c*, " gamel, *camel*.
g " *ga*, " gandra, *gander;* garlec, *garlic*
g " *ge*, " angel.
g " *w*, " laga, *law;* agen, *own;* fugel, *fowl*.
g " *y*. This is its most general power, as ge, *ye;* gear, *year;* burigan, *bury;* geoc, *yoke;* ego, *eye;* ge, *ye*, *y*.
sc " *sh*, as in scame, *shame;* scip, *ship;* score, *shore;* scyl, *shall*.
y " *ou*, as in ynce, *ounce*.
x " *sh*, as in fixas, *fishes;* axan, *ashes*.
x " *sk*, as in axian, *ask*.

And finally, in the words of Dr. Hickes, "Demum quomodo Anglo-Saxon icae voces factae sunt Angli-

cae mutando literas ejusdem organi, asperando lenes, et leniendo asperas, vocales, diphongos, et interdum consonantes leviter mutando, auferendo initiales et finales syllabas, præsertim terminationem modi infinitivi, præterea addendo, transponendo, et interponendo literas, et voces quoque syncopando, exemplis docendum est."

IV. Grammar.

Some observations on Anglo-Saxon grammar may show how much easier that also may be rendered to the English student. Dr. Hickes may certainly be considered as the father of this branch of modern learning. He has been the great restorer of the Anglo-Saxon dialect from the oblivion into which it was fast falling. His labors in it were great, and his learning not less than his labors. His grammar may be said to be the only one we yet possess: for that edited at Oxford in 1711 is but an extract from Hickes, and the principal merit of Mrs. Elstob's is, that it is written in English, without anything original in it. Some others have been written, taken also, and almost entirely from Hickes. In his time there was too exclusive a prejudice in favor of the Greek and Latin languages. They were considered as the standards of perfection, and the endeavor generally was to force other languages to a conformity with these models. But nothing can be more radically unlike than the frames of the

ancient languages, Southern and Northern, of the Greek and Latin languages, from those of the Gothic family. Of this last are the Anglo-Saxon and English; and had Dr. Hickes, instead of keeping his eye fixed on the Greek and Latin languages, as his standard, viewed the Anglo-Saxon in its conformity with the English only, he would greatly have enlarged the advantages for which we are already so much indebted to him. His labors, however, have advanced us so far on the right road, and a correct pursuit of it will be a just homage to him.

A noun is to be considered under its accidents of genders, cases, and numbers. The word gender is, in nature, synonymous with sex. To all the subjects of the animal kingdom nature has given sex, and that is twofold only, male or female, masculine or feminine. Vegetable and mineral subjects have no distinction of sex, consequently are of no gender. Words, like other inanimate things, have no sex, are of no gender. Yet in the construction of the Greek and Latin languages, and of the modern ones of the same family, their adjectives being varied in termination, and made distinctive of animal sex, in conformity with the nouns or names of animal subjects, the two real genders, which nature has established, are distinguished in these languages. But, not stopping here, they have by usage, thrown a number of unsexual subjects into the sexual classes, leaving the residuary mass to a third class, which grammarians call neutral—that is to say, of no

gender or sex: and some Latin grammarians have so far lost sight of the real and natural genders as to ascribe to that language seven genders, the masculine, feminine, neuter, gender common to two, common to three, the doubtful, and the epicene; than which nothing can be more arbitrary, and nothing more useless. But the language of the Anglo-Saxons and English is based on principles totally different from those of the Greek and Latin, and is constructed on laws peculiar and idiomatic to itself. Its adjectives have no changes of termination on account of gender, number or case. Each has a single one applicable to every noun, whether it be the name of a thing having sex, or not. To ascribe gender to nouns in such a case would be to embarrass the learner with unmeaning and useless distinctions.

It will be said, *e. g.*, that a priest is of one gender, and a priestess of another; a poet of one, a poetess of another, etc.; and that therefore the words designating them must be of different genders. I say, not at all; because although the thing designated may have sex, the word designating it, like other inanimate things, has no sex, no gender. In Latin, we well know that the thing may be of one gender and the word designating it of another. See Martial vii., Epig. 17. The ascription of gender to it is artificial and arbitrary, and, in English and Anglo-Saxon, absolutely useless. Lowthe, therefore, among the most correct of our English grammarians, has

justly said that in the nouns of the English language there is no other distinction of gender but that of nature, its adjectives admitting no change but of the degrees of comparison. We must guard against the conclusion of Dr. Hickes that the change of termination in the Anglo-Saxon adjectives, as god, gode, for example, is an indication of gender; this, like others of his examples of inflection, is only an instance of unsettled orthography. In the languages acknowledged to ascribe genders to their words, as Greek, Latin, Italian, Spanish, French, their dictionaries indicate the gender of every noun; but the Anglo-Saxon and English dictionaries give no such indication; a proof of the general sense that gender makes no part of the character of the noun. We may safely therefore dismiss the learning of genders from our language, whether in its ancient or modern form.

2. Our law of Cases is different. They exist in nature, according to the difference of accident they announce. No language can be without them, and it is an error to say that the Greek is without an ablative. Its ablative indeed is always like its dative; but were that sufficient to deny its existence, we might equally say that the Latins had no ablative plural, because in all nouns of every declension, their ablative plural is the same with the dative. It would be to say that to go *to* a place, or *from* a place, means the same thing. The grammarians of Port-Royal, therefore, have justly restored the abla-

tive to Greek nouns. Our cases are generally distinguished by the aid of the prepositions *of*, *to*, *by*, *from*, or *with*, but sometimes also by change of termination. But these changes are not so general or difficult as to require, or to be capable of a distribution into declensions. Yet Dr. Hickes, having in view the Saxon declensions of the Latin, and ten of the Greek language, has given six, and Thwaytes seven to the Anglo-Saxon. The whole of them, however, are comprehended under the three simple canons following:

(1.) The datives and ablatives plural of all nouns end in *um*.

(2.) Of the other cases, some nouns inflect their genitive singular only, and some their nominative, accusative and vocative plural also in *s*, as in English.

(3.) Others, preserving the primitive form in their nominative and vocative singular, inflect all the other cases and numbers in *en*.

3. Numbers. Every language, as I presume, has so formed its nouns and verbs as to distinguish a single and a plurality of subjects, and all, as far as I know, have been contented with the simple distinction of singular and plural, except the Greeks, who have interposed between them a dual number, so distinctly formed by actual changes of termination and inflection, as to leave no doubt of its real distinction from the other numbers. But they do not uniformly use their dual for its appropriate purpose.

The number two is often expressed plurally, and sometimes by a dual noun and plural verb. Dr. Hickes supposes the Anglo-Saxon to have a dual number also, not going through the whole vocabulary of nouns and verbs, as in Greek, but confined to two particular pronouns, *i. e.*, *wit* and *yit*, which he translates we two, and ye two. But Benson renders *wit* by *nos*, and does not give *yit* at all. And is it worth while to embarrass grammar with an extra distinction for two or three, or half a dozen words? And why may not *wit*, we two, and *yit*, ye two, be considered plural, as well as we three, or we four? as duo, ambo, with the Latins? We may surely say then that neither the Anglo-Saxon nor English have a dual number.

4. Verbs, moods. To the verbs in Anglo-Saxon Dr. Hickes gives six moods. The Greeks, besides the four general moods, Indicative, Subjunctive, Imperative, and Infinitive, have really on Optative mood, distinguished from the others by actual differences of termination. And some Latin grammarians, besides the Optative, have added, in that language, a Potential mood; neither of them distinguished by differences of termination or inflection. They have therefore been disallowed by later and sounder grammarians; and we may, in like manner, disembarrass our Anglo-Saxon and English from the Optatives and Potentials of Dr. Hickes.

Supines and Gerunds.

He thinks, too, that the Anglo-Saxon has supines and gerunds among its variations; accidents certainly peculiar to Latin verbs only. He considers *lufian*, to love, as the infinitive, and *to lufian*, a supine. The exclusion, therefore, of the preposition *to*, makes with him the infinitive, while we have ever considered it as the essential sign of that mood. And what all grammarians have hitherto called the infinitive, he considers as a supine or gerund. His examples are given in Anglo-Saxon and Latin, but I will add the equivalent Greek and English for illustration:

1 MARK, 24:—Come thu us to for-spillan?
Venisti nos *perditum*?
Ἦλθες ἀπολεσαι ἡμας;
Comest thou to destroy us?

9 LUKE, 1:—And he him an-wield sealed untrimness to healan, and devil-sickness ut to a-drivan.
Potestatem *curandi* infirmitates, et *ejiciendi* dæmonia.
ἐξουσιαν ἐπι παντα τὰ δαιμόνια καὶ νοσμος θεράπευειν
Authority over all demons, and to cure diseases.

2 MATT., 13:—Herod seeketh that child to for-spillan.
Herodes quærit puerum ad *perdendum* eum.
Ἡροδης ζητειν τὸ παιδιον τομ ἀπολέσαι αὐτο
Herod seeketh the child to destroy him.

1 LUKE, 77:—To sellen his folc hæle y-wit.
Ad dandam scientiam salutis plebi suæ.
τομ θοῦναι γνῶσιν σωτέριας τω λαῶ αὐτου.
To give knowledge of salvation to his people.

I ask then if ἀπολέσαι, θεράπευειν, θοῦναι, are supines or gerunds? Why then should to for-spillan, to healan,

to a-drivan, to sellen, or, to destroy, to heal, to cure, to drive, to give, be necessarily supines or gerunds? The fact is only that the Latins express by these inflections, peculiar to themselves, what other languages do by their infinitives.

From these aberrations, into which our great Anglo-Saxon leader, Dr. Hickes, has been seduced by too much regard to the structure of the Greek and Latin languages and too little to their radical difference from that of the Gothic family, we have to recall our footsteps into the right way, and we shall find our path rendered smoother, plainer, and more direct to the object of profiting of the light which each dialect throws on the other. And this, even as to the English language, appears to have been the opinion of Wallis, the best of our English grammarians, who, in the preface to his English grammar, says: "Omnes ad Latinæ linguæ normam hanc nostram Anglicanam nimium exigentes multa inutilia, præcepta de nominum casibus, generibus et declinationibus, atque verborum temporibus, modis et conjugationibus, de nominum item et verborum regimine, aliisque similibus tradiderunt, quæ a lingua nostra sunt prorsus aliena, adeoque confusionem potius et obscuritatem pariunt, quam explicationi inserviunt?"

Having removed, then, this cumbrous scaffolding, erected by too much learning, and obscuring instead of enlightening our Anglo-Saxon structure, I will proceed to give a specimen of the manner in which

I think might be advantageously edited any future republications of the Anglo-Saxon writings which we already possess in print, or any manuscripts which may hereafter be given to us through the medium of the press.

I take my specimen from Thwaites' Heptateuch, beginning with the 1st Chapter of Genesis. I give in one column the Anglo-Saxon text, in the Anglo-Saxon character, preserving letter for letter, the orthography of the Saxon original; in another column the same text in the Anglo-Saxon character also, spelt with a combined regard to the power of the letters, to English orthography and English pronunciation. I interline a version verbally exact, placing every English word against its Anglo-Saxon root, without regard to the change of acceptation it has undergone in time; as *e. g.*, "the earth was *idle* and empty," I Gen. 2, instead of the modern words "without form and void," and the "ἀορατος και ἀκατασκεῦαστος" of the LXX., leaving the ingenuity of the reader to trace the history of the change. In rendering the Anglo-Saxon into the corresponding English word, I have considered as English not only what is found in the oldest English writers, in glossaries and dictionaries, but in the Provincial dialects also, and in common parlance of unlettered people, who have preserved more of the ancient language than those whose style has been polished by education. Grammar, too, is disregarded, my principal object being to manifest the identity of the

two languages. This version is rendered more uncouth by the circumstances that 1. The ordo verborum of the Anglo-Saxon is not exactly the same as the English. 2. They used much oftener the noun without the article. 3. They frequently use their oblique cases without a preposition prefixed the English very rarely. In this verbal version these omissions are to be understood.

The Anglo-Saxon writings, in this familiar form, are evidently nothing but old English; and we may join conscientiously in the exhortation of Archbishop Parker, in his preface to Asser, "Omnes qui in regni institutis addiscendis, elaboraverint, cohortabor ut *exiguo labore*, *seu pene nullo*, hujus sibi linguæ cognitionem acquirant?"

As we are possessed in America of the printed editions of the Anglo-Saxon writings, they furnish a fit occasion for this country to make some return to the older nations for the science for which we are indebted to them; and in this task I hope an honorable part will in time be borne by our University, for which, at an hour of life too late for anything elaborate, I hazard these imperfect hints, for consideration chiefly on a subject on which I pretend not to be profound. The publication of the inedited manuscripts which exist in the libraries of Great Britain only, must depend on the learned of that nation. Their means of science are great. They have done much, and much is yet expected from them. Nor will they disappoint us. Our means are

as yet small; but the widow's mite was piously given and kindly accepted. How much would contribute to the happiness of these two nations a brotherly emulation in doing good to each other, rather than the mutual vituperations so unwisely and unjustifiably sometimes indulged in by both. And this too by men on both sides of the water, who think themselves of a superior order of understanding, and some of whom are truly of an elevation far above the ordinary stature of the human mind. No two people on earth can so much help or hurt each other. Let us then yoke ourselves jointly to the same car of mutual happiness, and vie in common efforts to do each other all the good we can—to reflect on each other the lights of mutual science particularly, and the kind affections of kindred blood. Be it our task, in the case under consideration, to reform and republish, in forms more advantageous, what we already possess, and theirs to add to the common stock the inedited treasures which have been too long buried in their depositories.

P.S. January, 1825. In the year 1818, by authority of the legislature of Virginia, a plan for the establishment of an University was prepared and proposed by them. In that plan the Anglo-Saxon language was comprehended as a part of the circle of instruction to be given to the students; and the preceding pages were then committed to writing for the use of the University. I pretend not to be an Anglo-Saxon scholar. From an early period of

my studies, indeed, I have been sensible of the importance of making it a part of the regular education of our youth; and at different times, as leisure permitted, I applied myself to the study of it, with some degree of attention. But my life has been too busy in pursuits of another character to have made much proficiency in this. The leading idea which very soon impressed itself on my mind, and which has continued to prevail through the whole of my observations on the language, was, that it was nothing more than the Old English of a period of some ages earlier than that of Piers Ploughman; and under this view my cultivation of it has been continued. It was apparent to me that the labors of Dr. Hickes, and other very learned men, have been employed in a very unfortunate direction, in endeavors to give it the complicated structure of the Greek and Latin languages. I have just now received a copy of a new work, by Mr. Bosworth, on the elements of Anglo-Saxon grammar, and it quotes two other works, by Turner and Jamieson, both of great erudition, but not yet known here.

Mr. Bosworth's is, indeed, a treasure of that venerable learning. It proves the assiduity with which he has cultivated it, the profound knowledge in it which he has attained, and that he has advanced far beyond all former grammarians in the science of its structure. Yet, I own, I was disappointed on finding that in proportion as he has advanced on and beyond the footsteps of his predecessors, he

has the more embarrassed the language with rules and distinctions, in imitation of the grammars of Greek and Latin; has led it still further from its genuine type of old English, and increased its difficulties by the multitude and variety of new and minute rules with which he has charged it. I had the less expected this from observations made early in the work, on "the total disregard of the Anglo-Saxons of any settled rules of orthography, their confounding the letters, using them indifferently for each other, and especially the vowels and diphthongs (p. 46), on the frequent transpositions of their letters, and the variety of ways of writing the same word by different Anglo-Saxon authors;" giving as examples, six ways of spelling the word "youth," and twenty ways of spelling "many;" observing that, in the comparative degree, the last syllable, *er*, was spelt with all the vowels indifferently; so also the syllable *est*, of the superlative degree, and so the participial terminations of *end* and *ed* (p. 54); adding many other examples of a use entirely promiscuous of the vowels, and much so of the consonants.

And in page 249 he says: "It must be evident that learning was not so common in the Saxon era as at the present time. Our ancestors, having few opportunities of literary acquirements, could not have determined upon fixed rules for orthography, any more than illiterate persons in the present day, who, having been employed in manual labor, could

avail themselves of the facilities which were offered. Hence arose the differences observable in spelling the same words in Saxon." And again, in a note, p. 253, he says: "Those changes in Saxon, which are denominated dialects, appear in reality only to be the alterations observed in the progress of the language, as it gradually flowed from the Saxon, varying, or casting off many of its inflections, till it settled in the form of the present English. This progressive transformation of the Anglo-Saxon into our present form of speech will be evident by the following examples, taken from the translations of the most learned men of the age to which they are referred." And he proceeds to give specimens of the Paternosters of the years 890, 930, 1130, 1160, 1180, 1250, 1260, 1380, 1430, 1500, 1526, 1537, 1541, 1556, 1611, that is, from the time of Alfred to that of Shakespeare. These obviously prove the gradual changes of the language from the Anglo-Saxon form to that of the present English, and that there was no particular point of time at which the Anglo-Saxon was superseded by the English dialect; for dialects we may truly call them, of the same language, separated by lines of time instead of space. And these specimens prove also that the language of Alfred was, no more than that of Piers Ploughman, a different one from that we now speak.

In like manner, the language of France, cotemporary with our Anglo-Saxon, was as different from modern French, as the Anglo-Saxon from modern

English; and their Romanum-rusticum, or Romain-rustique, as it was called, has changed insensibly, as our Anglo-Saxon, to the form now spoken. Yet so much of the fundamental idiom remains the same in both, that to read and understand the elder dialect, they need but a glossary for words lost by disuse.

I will make one more quotation from Mr. Bosworth, because it confirms what I have said of the scholastic bias of our early authors to place our old language in the line of Latin and Greek. "Hickes," says he, page 213, note 2, "indisputably one of the most learned of those who can be said to have examined, with a critical eye, our Saxon literature, influenced by the desire of reducing everything to some classical standard, a prejudice not uncommon in the age in which he wrote, endeavors, with greater zeal than success, to show that the writers whom he was recommending to the world [the Anglo-Saxon poets] observed the legitimate rules of Latin prosody, and measured their feet by syllabic quantity."

Notwithstanding these proofs that our author was fully aware of the unsettled and uncertain orthography of the Anglo-Saxons, and his particular observations, p. 53, 54, that "the final letters of words are often omitted," and "that the different letters suffer very frequent changes of position," he proceeds, in conformity with preceding authorities, which indeed support him, to make genders, cases, and declensions of nouns to depend on their termi-

nating vowel, p. 80, 81, 82, 83, 94; the formations of different parts of verbs to depend on the collocation of the letters [p. 143], and other formations [p. 181] and even regimen [p. 202] to depend on the final syllable. And this leads to such an infinitude of minute rules and observances, as are beyond the power of any human memory to retain. If, indeed, this be the true genius of the Anglo-Saxon language, then its difficulties go beyond its worth, and render a knowledge of it no longer a compensation for the time and labor its acquisition will require; and, in that case, I would recommend its abandonment in our University, as an unattainable and unprofitable pursuit.

But if, as I believe, we may consider it as merely an antiquated form of our present language, if we may throw aside the learned difficulties which mask its real character, liberate it from these foreign shackles, and proceed to apply ourselves to it with little more preparation than to Piers Ploughman, Douglas, or Chaucer, then I am persuaded its acquisition will require little time or labor, and will richly repay us by the intimate insight it will give us into the genuine structure, powers and meanings of the language we now read and speak. We shall then read Shakespeare and Milton with a superior degree of intelligence and delight, heightened by the new and delicate shades of meaning developed to us by a knowledge of the original sense of the same words.

This rejection of the learned labors of our Anglo-Saxon doctors, may be considered, perhaps, as a rebellion against science. My hope, however, is, that it may prove a revolution. Two great works, indeed, will be wanting to effect all its advantages. 1. A grammar on the simple principles of the English grammar, analogizing the idiom, the rules and principles of the one and the other, eliciting their common origin, the identity of their structure, laws and composition, and their total unlikeness to the genius of the Greek and Latin. 2. A dictionary, on the plan of Stephens or Scapula, in which the Anglo-Saxon roots should be arranged alphabetically, and the derivatives from each root, Saxon and English, entered under it in their proper order and connection. Such works as these, with new editions of the Saxon writings, on the plan I venture to propose, would show that the Anglo-Saxon is really old English, little more difficult to understand than works we possess, and read, and still call English. They would recruit and renovate the vigor of the English language, too much impaired by the neglect of its ancient constitution and dialects, and would remove, for the student, the principal difficulties of ascending to the source of the English language, the main object of what has been here proposed.

Observations on Anglo-Saxon Grammar.

Pronunciation.—Different nations use different alphabets for expressing the sounds of their languages; and nations which use the same alphabet assign very different powers to the same characters. Hence, to enable persons to learn the language of other countries, grammars are composed explaining to what letters and combinations of them, in their own language, the letters and combinations of them in another are equivalent. The pronunciation of the living languages is deposited in records of this kind, as doubtless was that of the Greek and Latin languages, now considered as dead. These evidences of their pronunciation, however, being lost, we resort to the countries in which these languages were once spoken, and where they have been insensibly altered to what is now spoken there; and we presume that, the same alphabetical characters being still preserved there, the powers assigned to them are those handed down by tradition, with some changes, no doubt, but yet tolerably correct in the main: and that the present pronunciation of those characters by the inhabitants of the same country is better evidence of their ancient power than any other to be obtained at this day. Hence it is presumed that the pronunciation of the Greek and Roman characters, now practiced by the modern Greeks and Italians, is nearer probably to that of the ancient Greeks and Romans than the

sounds assigned to the same characters by any other nation.

The Anglo-Saxon is also become a dead language. Its alphabet is preserved; but if any written evidences exist of the powers assigned to its different characters, it is unknown to me. On the contrary, I believe that the expressions of the sounds of their language by alphabetical characters had not been long and generally enough practised to settle an uniform power in each letter or combination of letters. This I infer from their infinitely diversified modes of spelling the same word. For example, the word *many* is found spelt in twenty different manners. To supply evidence, therefore, of the pronunciation of their words, we should, I think, resort to the pronunciation of the corresponding words in modern English. For as the Anglo-Saxon was insensibly changed into the present English language, it is probable the English have the pronunciation, as well as the words, by tradition. Indeed, I consider the actual pronunciation of a word by the English as better evidence of its pronunciation by their Anglo-Saxon ancestors than the multiform representation of it by letters which they have left us. The following examples will give an idea of the appeal I make to English pronunciation for the power of the Saxon letters, and sound of the Saxon words:

The Anglo-Saxon .c in cy. cynnic was probably sounded as *k* in the corresponding English words *kine, kingric.*

ci. in ciertre = ch, in chest.
eo. in eop, eopep = yo, in you, your.
" in þreo, seofon = e, in three, seven.
" in feopep = o, in four.
ea. in anfeald, twyfeald = a, or o, in onefold, twofold.
ge. prefix = y, in yclept, or a. in adown, along, aside, among, about, etc.
io. in fioc, fiolc, fiolfor = i, in sick, silk, silver.
sc in biscop, judeisc, scomleare = sh, in bishop, Jewish, shameless.

Those, I think, who have leisure and knowledge of the subject, could not render it a greater service than by new editions of the Saxon writings still extant, digested under four columns, whereof the first should present the text in the Saxon character and original loose orthograhy; the second the same text in Saxon characters reformed to modern English orthography as nearly as allowable; the third, the same text in the English character and orthography; the fourth, an English version, as literally expressed, both as to words and their arrangement, as any indulgences of grammar or of obsolete or provincial terms, would tolerate. I will exhibit the following passage from Alfred's Orosius, I. i., p. 23, as a specimen:

1. Saxon Orthography.	2. Saxon Orthography reformed.	3. English Character and Orthography.	4. English Literal Version.
he ƿæſ mid þæm ƒẏꞃſt-	he þaſ miþ þem ƒiꞃſt-	he (other) was mid them first-	he (ohtere) was with the first
-um mannum on þæm	-um mannum in þem	-um mannum in them	men in the
lande. *næƒde he	land. naƒd he	land. nhaved he	land, nor had he
þeah ma þonne tƿen-	þo ma þen tƿen-	tho ma then twen-	tho' more then twen-
tig hꞃẏðeꞃa ⁊ tƿen-	tẏ hꞃyðeꞃa. ⁊ tƿen-	-ty hryther, & twen-	-ty cattle, and twen-
tig ſceapa. ⁊ tƿentig	ty ſceep. ⁊ tƿenty	-ty sheep, & twenty	-ty sheep, and twenty
ſƿẏna. ⁊ þat lẏtle	ſƿine. ⁊ þat little	swine. & that little	swine. and that little
þat he eꞃede. he eꞃede	þat he eaꞃed he eaꞃed	that he eared, he eared	that he *eared, he eared
mid hoꞃſan. ac hẏꞃa	miþ hoꞃſen. ac hẏꞃ	mith horsen, ac hir	with horses, but their
aꞃ iſ mæſt on þæm	aꞃ iſ moſt on þem	ar is most in them	rent is most in the
gaƒol þe þa Finnaſ	gavel þa þe Finneſ	gavel tha the Fins	gavel that the Fins
him gẏldað. þæt ga-	him ẏieldeð. þat ga-	him yieldeth. that ga-	them yield. that ga-
ƒol hið on deoꞃa ƒel-	-vel heeð on deeꞃ ƒel-	-vel beeth in deer fel-	-vel be in deer fells,
-lum. ⁊ on Fugela ƒe-	-lum. ⁊ on Foƿl ƒe-	-lum, & in fowl-fea-	and in fowl fea-
ðeꞃum. ⁊ hƿaleſ	þeꞃum. ⁊ ƿhaleſ	-therum, & whales	-thers, and whale's
hane. ⁊ on þæm ſcip-	hone. ⁊ on þem ſhip-	-bone, & in them ship-	bone, and in the ship-
-ꞃapum þe heoð oƒ	-ꞃopum þe heeð oƒ	-ropum tha beeth of	-ropes that be of
hƿæleſ hẏde geꞃoƿht	ƿhaleſ hide yƿꞃoght.	whales hide ywrought,	whale's hide wrought
⁊ oƒ ſeoleſ :. Ægh-	⁊ oƒ ſealſ. ay-	& of seals : ay-	and of seals : aye-
-ƿilc gẏlt he hẏſ ge-	-ƿhile yield hẏ hiſ y-	-while yield by his y-	-while (every one) yields by his
-hẏꞃdum. ſe hẏꞃdeſ-	hiꞃðum. ſe hiꞃðeſt	-birthum. se birthest	birth [state] the birthest [state-
ta ſceal gẏldan	ſhall yielden	shall yield	-liest] shall yield
ƒiƒtẏne meaꞃðeſ	ƒiƒteen maꞃtſ	fifteen marts	fifteen martin's
ƒell. ⁊ ƒiƒ hꞃaneſ. ⁊	ƒell. ⁊ ƒive ꞃaineſ. ⁊	fell, & five rains, &	fells, and five raindeer, and
an heꞃan ƒel. ⁊ tẏn	an heaꞃen ƒell. ⁊ ten	an bearenfell, & ten	an bear's fell, and ten
amhꞃa ƒeðꞃa. ⁊ he-	hampeꞃa ƒeaþeꞃa. ⁊	hampera feathera, &	hampers of feathers, and
-ꞃenne kẏꞃtel oððe	heaꞃen kiꞃtle oþ	bearen kirtle oth	bear's kirtle or
ẏteꞃenne. ⁊ tƿegen	otteꞃen. ⁊ tƿain	otteren, & twain	otter's, and twain
ſcipꞃapaſ. ægþeꞃ	ſhipꞃoƿeſ. eiþeꞃ	shipropes, either	ship ropes, either
ſẏ ſẏxtig elne lang.	ſi ſixty ellen long.	si sixty ellen long.	is sixty ells long.
oþeꞃ ſẏ oƒ hƿæleſ	oþeꞃ ſi oƒ ƿhaleſ	other si of whales	other is of whale's
hẏde geƿoꞃht.	hide yƿꞃoght	hide ywrought,	hide wrought,
oþeꞃ oƒ ſioleſ :.	oþeꞃ oƒ ſealſ.	other of seals.	other of seals.
* ne-hæƒde contracted.			* ploughed.

The dissimilitude between Saxon and English is more in appearance than in reality. It consists chiefly in the difference of character and orthography. Suppress that (as is done in the third column), represent the sounds by the English character and orthography, and it is immediately seen to be, not a different language, but the same in an earlier stage of its progression. And such editions of the Saxon writers, by removing the obstructions of character and false spelling, enabling us to give habitual and true, instead of uncouth and false sounds to words, would promote the study of the English language, by facilitating its examination in its mother state, and making us sensible of delicacies and beauties in it, unfelt but by the few who have had the courage, through piles of rubbish to seek a radical acquaintance with it.

Declensions of Nouns.

One of the simplifications of the study of the Anglo-Saxon which would result from a reformation of its orthography to the present English standard, would be a reduction in the number of the declensions of nouns heretofore assigned to it. The Anglo-Saxons seem to have thought some final vowel necessary to give sound to the preceding consonant, although that vowel was not itself to be sounded; and nothing being less fixed than the power of their vowels and diphthongs, they have used all the vowels indiscriminately for this purpose. Thus,

The word Son, in modern English, was spelt by them ſuna, ſune, ſunu. Free; ſꝛeah, ſꝛeo, ſꝛeoh, ſꝛiȝ. Meal; mela, mele, melu. Man; man, mon. Milk; meolc, meoloc, meoluc, milc. Mickle; micel, mucel, mycel, mycle, myccle. Pepper; peopeꝛ, peppoꝛ, pipoꝛ.

Notwithstanding these various orthographies, all, I presume, represent the same sound, and probably that still retained by the English. For I can more easily suppose that an unlettered people used varous modes of spelling the same word, than that they had so many different words to express the same thing. The *e* final of the English is a relict of the Anglo-Saxon practice of ending a word with a final vowel. A difference of orthography, therefore, and still less a mere difference of a final vowel is not sufficient to characterize a different declension of nouns. I should deem an unequivocal change in the sound necessary to constitute an inflection; and a difference in the inflections necessary to form a class of nouns into a different declension. On these principles I should reduce Thwaite's seven declensions to four, as follows:

1st declension, being Thwaite's 5th and 6th:

Sing.	*Nom.*	piln	=piln	*Sing.*	*Nom.*	ɾunu	ɾun
	Acc.				*Voc.*		
	Voc.				*Abl.*		
	Gen.	pilne		*Plur.*	*Nom.*	ɾuna	
	Dat.				*Gen.*		
	Abl.				*Acc.*		
Plur.	*Nom.*	pilna-e-o-u			*Voc.*		
	Gen.	pilna		*Sing.*	*Dat.*	ɾuna. u	
	Acc.				*Acc.*		
	Voc.			*Plur.*	*Dat.*	ɾunum	ɾunum
	Dat.	pilnum	pilnum		*Abl.*		
	Abl.						

2d declension, comprehending Thwaite's 3d and 4th:

Sing.	*Nom.*	andʒit	=andʒit	*Sing.*	*Nom.*		
	Acc.				*Acc.*		
	Voc.				*Voc.*	poɲd	poɲd
	Dat.	andʒite-a		*Plur.*	*Acc.*		
	Abl.				*Voc.*		
Plur.	*Gen.*	andʒita			*Nom.*	poɲde-a	
	Acc.	andʒitu			*Gen.*	poɲda	
	Voc.			*Sing.*	*Dat.*	poɲde	
	Nom.	andʒitn-a. o			*Acc.*		
Sing.	*Gen.*	andʒitef	=andʒitf		*Gen.*	poɲdf	poɲdf
	Dat.	andʒitum	andʒitum	*Plur.*	*Dat.*	poɲdum	poɲdum
	Abl.				*Abl.*		

3d declension, comprehending Thwaite's 1st and 7th:

Sing.	*Nom.*	ꝼmiꝺ	ꝼmiꝺ	*Sing.*	*Nom.*	ꝼꝓeo-oh	ꝼꝓe
	Acc.				*Acc.*		
	Voc.				*Dat.*		
	Dat.	ꝼmiꝺe			*Abl.*	ꝼꝓeo	
	Abl.				*Voc.*	ꝼꝓeoh	
Plur.	*Gen.*	ꝼmiꝺa		*Plur.*	*Gen.*	ꝼꝓea	
Sing.	*Gen.*	ꝼmiꝺeꝛ	ꝼmiꝺꝛ		*Nom.*	ꝼꝓeoꝛ	=ꝼꝓeꝛ
Plur.	*Nom.*	ꝼmiꝺaꝛ			*Acc.*		
	Acc.				*Voc.*		
	Voc.			*Sing.*	*Gen.*		
	Dat.	ꝼmiꝺꝺum . .	ꝼmiꝺum	*Plur.*	*Dat.*	ꝼꝓeum . .	ꝼꝓeum
	Abl.				*Abl.*		

4th declension, being Thwaite's 2d:

Sing.	*Nom.*	piꝛeȝa	=piꝛeȝ
	Voc.		
	Gen.		
	Dat.		
	Acc.		
	Abl.	piꝛeȝan	
Plur.	*Nom.*		piꝛeȝen
	Acc.		
	Voc.		
	Gen.	piꝛeȝena	
	Dat.	piꝛeȝum	piꝛeȝum
	Abl.		

In stating the declensions here the first column presents the Anglo-Saxon orthography, the varieties of which have been deemed sufficient to constitute inflections and declensions. The second column presents a reformed orthography, supposed equivalent to the other as to sound, and consequently showing that a variety in spelling where there is a sameness of sound does not constitute an inflection; or change of declination.

The four declensions, reformed to an uniform orthography, would stand thus:

I.	*Sing.*	*Nom.*	ꝑilṅ, ſun
		Gen.	
		Dat.	
		Acc.	
		Voc.	
		Abl.	
	Plur.	*Nom.*	
		Gen.	
		Acc.	
		Voc.	
		Dat.	ꝑilnum, ſunum
		Abl.	

II.	*Sing.*	*Nom.*	anðʒiꝛ, ꝑoꝓð
		Dat.	
		Acc.	
		Voc.	
		Abl.	
	Plur.	*Nom.*	
		Gen.	
		Acc.	
		Voc.	
	Sing.	*Gen.*	anðʒiꝛſ, ꝑoꝓðſ
	Plur.	*Dat.*	anðʒiꝛum, ꝑoꝓðum
		Abl.	

III.	*Sing.*	*Nom.*	ſmið, ꝼꝓe
		Dat.	
		Acc.	
		Voc.	
		Abl.	
	Plur.	*Gen.*	
	Sing.	*Gen.*	ſmiðſ, ꝼꝓeſ
	Plur.	*Nom.*	
		Acc.	
		Voc.	
		Dat.	ſmiðum, ꝼꝓeum
		Abl.	

IV.	*Sing.*	*Nom.*	ꝑiꝛeʒ
		Voc.	
		Gen.	ꝑiꝛeʒen
		Dat.	
		Acc.	
		Abl.	
	Plur.	*Nom.*	
		Gen.	
		Acc.	
		Voc.	
		Dat.	ꝑiꝛeʒum
		Abl.	

In this scheme, then,

The first declension has no inflection, but for the dative and ablative plurals, which end in um.

The second inflects its genitive singular in ꝛ, and dative and ablative plural in um.

The third inflects its genitive, singular, nominative, accusative, and vocative plural in ꝛ; and dative and ablative plural in um.

The fourth preserving its radical form in the nominative and vocative singular, inflects all its other cases in en, except the dative and ablative plural, which, in all the declensions, end invariably in um.

It may be said that this is a bold proposition, amounting to a change of the language. But not so at all. What constitutes a language is a system of articulated sounds, to each of which an idea is attached. The artificial representation of these sounds on paper is a distinct thing. Surely there were languages before the invention of letters; and there are now languages never yet expressed in letters. To express the sounds of a language perfectly, every letter of its alphabet should have but a single power, and those letters only should be used whose powers successively pronounced would produce the sound required. The Italian orthography is more nearly in this state than any other with which I am acquainted; the French and English the farthest from it. Would a reformation of the orthography of the latter languages change them? If the French word *aimaient*, for example,

were spelt *émé*, according to the French, or *ama*, according to the English power of those letters, would the word be changed? Or if the English word *cough* were spelt *cof*, would that change the word?

And how much more reasonable is it to reform the orthography of an illiterate people among whom the use of letters was so rare that no particular mode of spelling had yet been settled, no uniform power given to their letters, every one being left free to express the words of the language by such combinations of letters as seemed to him to come near their sound. How little they were agreed as to the powers of their own letters, and how differently and awkwardly they combined them to produce the same sound, needs no better example than that furnished by Dr. Hickes of the short and simple sound of *many* being endeavored to be represented by twenty different combinations of letters; to wit, in English characters, mænigeo, mænio, mæniu, menio, meniu, mænigo, mænego, manige, menigo, manegeo, mænegeo, menegeo, mænygeo, menigeo, manegu, mænigu, menegu, menego, menigu, manigo. Now, would it change the word to banish all these, and give it, in their books, the orthography of *many*, in which they have all ended? And their correction in type is no more than every reader is obliged to make in his mind as he reads along; for it is impracticable for our organs to pronounce all the letters which their bungling spellers have huddled together. No one would attempt to

give to each of these twenty methods of spelling *many* the distinct and different sounds which their different combinations of letters would call for. This would be to make twenty words where there surely was but one. He would probably reduce them all, wherever he met with them, to the single and simple sound of *many*, which all of them aimed to produce.

This, then, is what I would wish to have done to the reader's hand, in order to facilitate and encourage his undertaking. For remove the obstacles of uncouth spelling and unfamiliar character, and there would be little more difficulty in understanding an Anglo-Saxon writer than Burns' Poems. So as to the form of the characters of their alphabet. That may be changed without affecting the language. It is not very long since the forms of the English and French characters were changed from the black letter to the Roman; yet the languages were not affected. Nor are they by the difference between the printed and written characters now in use. The following note, written by Ælfric, is not the less Latin because expressed in Anglo-Saxon characters:

'Ego Ælfricus scripsi hunc Librum in monasterio Bathonio et dedi Brihtpoldo Preposito.'

We may say truly, then, that the Anglo-Saxon language would still be the same, were it written in

the characters now used in English, and its orthography conformed to that of the English; and certainly the acquisition of it to the English student would be greatly facilitated by such an operation.

A SPECIMEN

OF THE

FORM IN WHICH THE ANGLO-SAXON WRITINGS STILL EXTANT MIGHT BE ADVANTAGEOUSLY PUBLISHED, FOR FACILITATING TO THE ENGLISH STUDENT THE KNOWLEDGE OF THE ANGLO-SAXON DIALECT.

GENESIS—CHAPTER I.

1. On angin y-shope God hevenan and earthan.

In beginning shaped God heaven and earth.

1. On anginne gesceop God heofenan and eorthan.

2. Se earth sothelic was idle and empty, and thestre weron over there newelness broadness; and God's gost was [1]y-fared over water.

The earth forsooth was idle and empty, and darkness were over the abyss's broadness; and God's ghost was fared over water.

2. Seo eorthe sothlice wæs ydel & æmtig, and thoestru wæron ofer thære niwelnisse bradnisse & Godes gast was geferod ofer wæteru.

3. God cwoth tha, y-werth liht, and liht werth y-wrought.

God quoth then were light, and light were wrought.

3. God cwæth tha, ge-weorthe leoht; & leoht wearth ge-worht.

[1] The prefixes *ge*, *ye*, *y*, *i*, being equivalent, I shall use the *y* for them all.

4. God y-saw tha that it good was, and he to-dealed that liht from tham thestrum.

God saw then that it good was, and he dealed that light from the darkness.

5. And het that liht day, and the thestre night. Tha was y-worden even and morowen an day.

And hight that light day, and the darkness night. Then was wrought even and morn ane day.

6. God cwoth tha aft, y-werth nu fastness to-mids them waterum, & to-[1]tweme the water from them waterum.

God quoth them afer, were now fastness amidst the waters, & twain the waters from the waters.

7. And God y-wroht the fastness, and to-twemed the water the weron under there fastness from them the weron boven there fastness; it was tha swa y-done.

And God wrought the fastness, and twained the waters that were under the fastness from them that were aboven there fastness; it was then so done.

8. And God het the fastness heavenan, and was tha y-wroden even & morowen other day.

And God hight the fastness heaven, and was then wrought even & morn other day.

9. God tha soothlic cwoth been y-gathered tha water the sind under there heavenan, and atewy

4. God geseah tha thæt hit god was, and he to dælde that leoht fram tham theostrum.

5. And het that leoht dæg, and tha theostra niht. Tha wæs ge-worden æfen & morgen an dæg.

6. God cwæth tha eft, gewurthe nu fæstnis tomiddes tham waterum, and totwæme tha wæteru fram tham wæterum.

7. And God geworhte tha fæstnisse, & totwæmde the wæteru the wæron under thære fæstnisse fram tham the wæron bufan thære fæstnisse; hit wæs tha swa gedon.

8. And God het tha fæstnisse heofenan, and wæs tha geworden æfen & morgen other dæg.

9. God tha sothlice cwæth, beon gegaderode tha wæteru the sind under theare heofenan, and

[1] *Twam* (tweme) signifies twain.

dryness; it was tha swa y-done.

God then forsooth quoth, be gathered the waters that are under the heavens, and shew dryness; it was then so done.

10. And God y-kyed the dryness earthan, and the water y-gathering he het seas: God y-saw tha that it good was.

And God called the dryness earth, and the water gathering he hight seas: God saw then that it good was.

11. And cwoth, sprute se earth growend gras & seed workend, and apple bear tree wæstm workend after his kin, these seed sy on him selfum over earthen; it was tha swa y-done.

And quoth, sprout the earth growing grass & seed working, and apple bear tree fruit working after his kin, the seed be in him self over earth; it was then so done.

12. And se earth fortha-teah growend wort & seed bearing by hire kin; & tree westm workend, and y-whilc seed havend after his hue. God y-saw tha that it good was;

And the earth[1] *forth-brought growing wort & seed bearing by their kin; & tree fruit working, and ilc seed having after its hue. God saw then that it good was;*

13. And was y-wroden even and morwen the third day.

And was wrought even and morn the third day.

æteowigedrignis, hit wæs tha gedon.

10. And God gecigde tha drignisse eorthan and thæra wætera gegaderunga he het sæs. God geseah tha that hit god wæs.

11. And cwæth, spritte seo eorthe growende gær and sæd wircende, and æpplebære treow, wæstm wir cende æfter his cinne; thæs sædsig on him silfum ofer eorthan. Hit wæs tha swa gedon.

12. And seo eorthe fortha-teah growende wirte and sæd berende be hire cinne, and treow westm wircende & gehwilc sæd hæbbende æfter his hiwe. God geseah that hat hit god was.

13. And wæs gewroden æfen & morgen the thridda dæg.

[1] *Teon producere, fortha-teon*, forth-bring. See post v. 20, *teon*, forth; also *it*, 9, *fortha-teah*.

14. God cwath tha sothlic, be nu liht on there heavenan fastness, and to-dealon day and niht, and been to-toknum & to-tidum, & to-dayum, & to-yearum.

God quoth then forsooth, be now light in the heaven [1]*fastness, and deal day and night, and be tokens & tides, & days & years.*

14. God cwæth tha sothlice, beo nu leoht on thære heofenan fæstnisse, and to ælon dæg & nihte, & beon to tacnum & to tidum & to dagum & to gearum.

15. And hi shinon on there heavenon fastness, and a-lithon tha earthan; it was tha swa y-wroden.

And they shine in the heaven fastness, and a-lighten the earth; it was then so wrought.

15. And hig scinon on thære heofenan fæstnisse and alihton tha eorthan. Hit wæs tha swa geworden.

16. And God y-wroht twa mickle liht, that mair liht to these days lihting, & that less liht to the niht lihting; and starran he y-wroht.

And God wrought twa mickle lights, the more light to the days lighting, & the less light to the night lighting; and stars he wrought.

16. And God geworhte twa micele leoht, that mare leoht, to thæs dæges lightinge, and that læsse leoht to thære nihte lihtinge; & steorran he geworhte.

17. And y-set hi on there heavenon that hi shinon over earthan,

And set them in the heavens that they shine over earth,

17. And gesette hig on thære heofenan, that hig scinon over eorthan.

18. And gimdon these days and these niht, and to-dealdon liht and thester. God y-saw tha that it good was.

And govern the days and the nights, and deal light and darkness. God saw then that it good was.

18. And gimdon thæs dæges thære nihte, & to dældon leoht and theostra. God geseah tha that hit god wæs.

[1] *Fastness*, firmament.

19. And was y-wroden even and morwen, the fourth day.

And was wrought even and morn, the fourth day.

19. And wæs geworden æfen & morgen se feortha dæg.

20. God cwoth eke swilc, teon nu that water forth swimmend kin cuic in life, & flying kin over earthan under there heavenan fastness.

God quoth [1]eke swilc, bring now the water forth swimming kind quick, in life, & flying kind over earth under the heaven fastness.

20. God cwæth eac swilce, teon nu tha wæteru forth swimmede cynn cuic on life, & fleogende cinn ofer eorthan under thære heofenan fæstnisse.

21. And God y-shope tha the mickelan whales and all livend fishen, and stirrendlia the tha water tugon forth on heor hiwum, and all flyend kin after heor kin; God y-saw tha that it good was;

And God [2]shope then the mickle whales, and all living fishes, and stirring that the water [3]tows forth in their [4]hue, and all flying kind after their kind; God saw then that it good was;

21. And God gesceope tha tha micelanh walas, & eall libbende fisccinn & stirigendlice, the tha wæterut ugon forth on heora hiwum, and eall fleogende cinn æfter heora cinne. God geseah tha that hit god wæs.

22. And bletsed hi thus quoth-end, waxath and beeth y-manifold & y-fillath the sea-water and tha fuweles been y-manifold over earthan.

And blessed them thus quothing, wax and be manifold, & fill the sea-water and the fowles be manifold over earth.

22. And bletsode hig thus cwethende, weaxath & beoth gemenigfilde, & gefillath thære sæ wæteru, and tha fugelas beon gemenigfilde ofer eorthan.

23. And tha was y-wroughten even and morwen tha fifth day.

And then was wrought even and morn the fifth day.

23. And tha wæs geworden æfen and morgen se fifta dæg.

[1] *Eac-swilc*, al o.

[2] *Shope* (Bailey), for shaped.

[3] *Verstegan—tuge*, to draw out—to lead; toga ductor (Benson).

[4] *Hiwe*, color (Versteg-Benson); it means also a hive, house, family.

24. God cwoth eke-swilc, lead se earth forth cuic niten on heor kin, & creepend kin and deer after heor hiwum. It was tha swa y-wroden.

God quoth eke-swilc, lead the earth forth quick [1]*neats in heor kin, & creeping kind and* [2]*deer after their hue. It was then so wrought.*

24. God cwæth eacswilc, læde seo eorthe forth cuic nitena on heora cinne, and creopende cinn, and deor æfter heora hiwum. Hit wæs tha swa geworden.

25. And God y-wroht there earthen deer after hir hiwum, and tha neaton, and all creepend kin on hior kin. God y-saw tha that it good was.

And God wrought the earthen deer after their hue, and the neats, and all creeping kind in their kind. God saw then that it good was.

25. And God geworhte thære eorthan deor æfter hira hiwum, & tha nitenu and eall creopende cynn on heora cynne. God geseah tha that hit good wæs.

26. And cwoth, [3]Uton, workan man to and-likeness, and to our y-likeness, and he sy over the fishes, and over the fowles, and over the deer, and over all y-shaft, & over all the crepend the stirreth on earthan.

And quoth, Come, work man to likeness, and to our likeness, and he be over the fishes, and over the fowls, and over the deer, and over all creatures, & over all the creeping that stirreth on earth.

26. And cwæth, Uton, wircean, man to andlicnisse, and to ure gelicnisse, and he sig ofer tha fixas, & ofer tha fugelas, and ofer the deor, and ofer ealle gesceafta, and ofer ealle tha creopende se stirrath on eorthan.

27. God y-shope the man to his and-likeness, to Godes and-likeness he y-shope hine werhoods and wife-hoods he y-shope hy.

God shope then man to his like-

27. God gesceop tha man to his andlicnisse, to Godes andlicnisse he gesceop hine, werhades and wifhades he gesceop hig.

[1] *Nitena*, neat cattle.

[2] *Deer*. Probably this was then the generic name for all the feræ or wild quadrupeds.

[3] *Uton*, verbum hortantis, ace (Benson); come.

ness, to God's likeness he shope him, man-hoods and wife-hoods he shope them.

28. And God hy bletsed and cwoth, waxeth and beeth y-manifold, and y-filleth the earthan, and y-wieldeth hy, and haveth on yourum y-wield there sea-fishes and there lyft-fowels and all neaten that stirreth over earthan.

And God them blessed and quoth, wax and be manifold, and fill the earth, and wield them, and have in your wield the sea-fishes and the air-fowls and all neats that stirreth over earth.

29. God cwoth tha, [1]even, I for-give you all grass and wort-seed bearend over earthan, and al treewa tha the haveth seed on him selfon, heor owens kins, that hy been you to meat.

God quoth then, even, I give you all grass and wort-seed bearing over earth, and all trees that haveth seed in himself, their own kinds, that they be you to meat.

30. And allum neatum and all fowelkin and eallum tham the stirreth on earthan, on tham the is livend life, and hi havon hem to yreordien. It was tha swa y-done.

And all neats and all fowl-kind, and all them that stirreth on earth, on them that is living life, and they have them to feed. It was then so done.

28. And God hig bletsode and cwæth, wexath and beoth gemenigfilde, and gefillath tha eorthan and gewildath hig, and habbath on eowrum gewealde thære sæ fixas and thære lyfte fugelas & ealle nytenu the stiriath ofer eorthan.

29. God cwæth tha, Efne, Ic forgeaf eow eall gærs and wyrta sæd berende ofer eorthan, and ealle treowa tha the habbath sæd on him silfon heora agenes cynnes, that hig beon eow to mete.

30. And eallum nytenum & eallum fugelcynne and eallum tham the stiriath on eorthan, on tham the ys libbende lif, that hig habbon him to gereordienne. It was tha swa gedon.

[1] *Efne*, verily, *adv.* (Bailey); lo!

31. And God y-saw all the thing the he y-wroht, & he weron good. Was tha y-wroughten even and morwen se sixth day.

And God saw all the things that he wrought, & they were good. Was then wrought even and morn the sixth day.

31. And God y-saw ealle tha thing the he geworhte, and hig wæron swithe gode. Was tha geworden æfen and mergen se sixth dæg.

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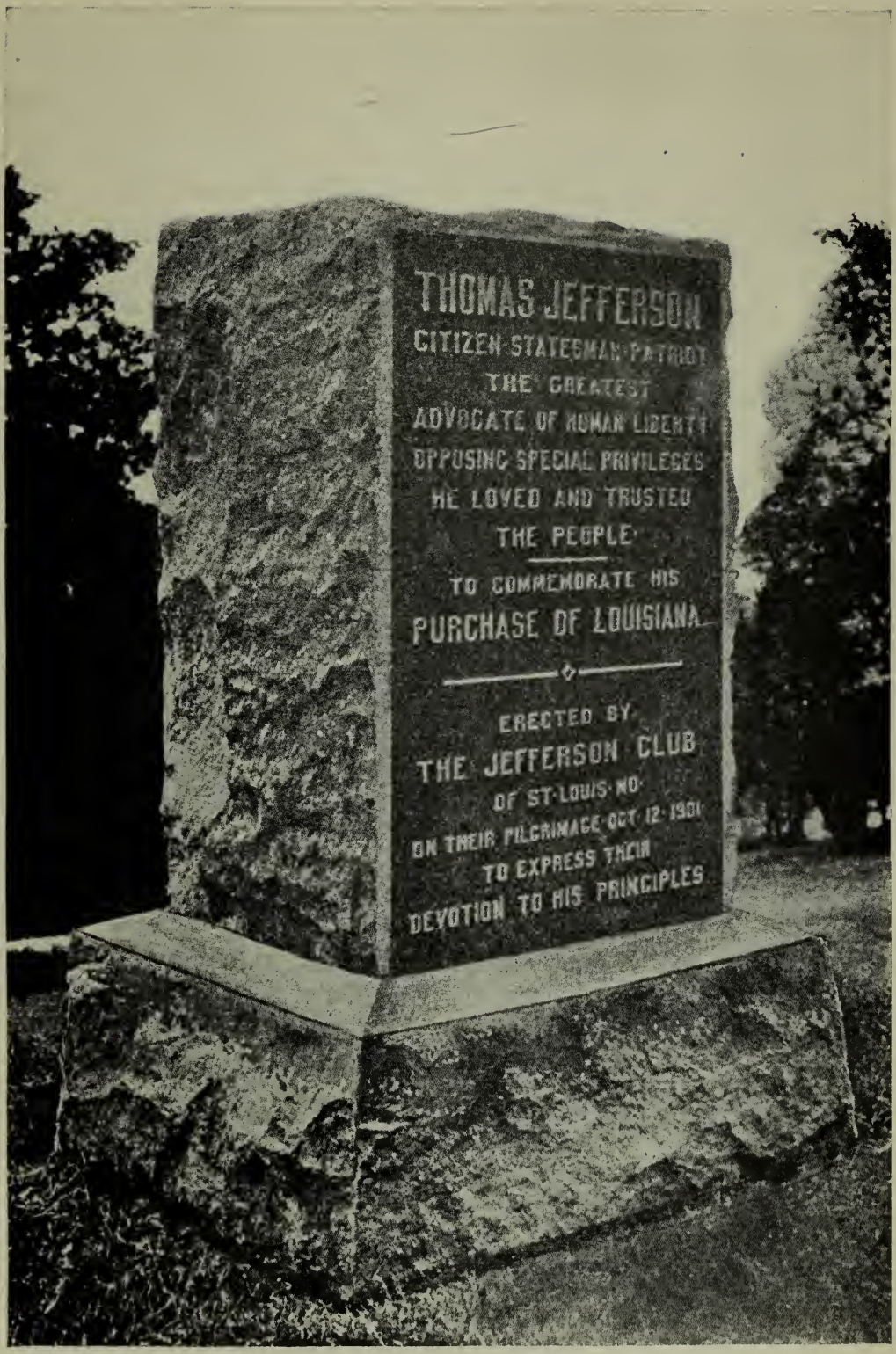
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TO EXPRESS THEIR
DEVOTION TO HIS PRINCIPLES

THOUGHTS ON ENGLISH PROSODY.

AN ESSAY ON THE ART OF POESY.

INTRODUCTORY NOTES.

The following letter, in which Jefferson explains his reasons for writing his "Thoughts on English Prosody," was written to Monsieur F. J. de Chastellux. The letter is undated, but we infer from its tone that the essay was written after Jefferson's return from France in 1789, and probably during the time he was Secretary of State:

"Among the topics of conversation which stole off like so many minutes the few hours I had the happiness of possessing you at Monticello, the measures of English verse was one. I thought it depended like Greek and Latin verse, on long and short syllables arranged into regular feet. You were of a different opinion. I did not pursue this subject after your departure, because it always presented itself with the painful recollection of a pleasure which in all human probability I was never to enjoy again. This probability like other human calculations has been set aside by events; and we have again discussed on this side the Atlantic a subject which had occupied us during some pleasing moments on the other. A daily habit of walking in the Bois de Boulogne gave me an opportunity of turning this subject in my mind and I determined to present you my thoughts on it in the form of a letter. I for some time parried the difficulties which assailed me, but at length I found they were not to be opposed, and their triumph was complete. Error is the stuff of which the web of life is woven and he who lives longest and wisest is only able to weave out the more of it. I began with the design of converting you to my opinion that the arrangement of long and short syllables into regular feet constituted the harmony of English verse. I ended by discovering that you were right in denying that proposition. The next object was to find out the real circumstance which gives harmony to English poetry and laws to those who make it. I present you with the result. It is a tribute due to your friendship. It is due you also as having recalled me from an error in my native tongue and that, too, in a point the most difficult of all others to a foreigner, the law of its poetical numbers."

This essay on English poesy did not appear in either the Congressional or Ford editions of Jefferson's Writings, and so far as can be ascertained has never been published before in any form.

THOUGHTS ON ENGLISH PROSODY.

Every one knows the difference between verse and prose in his native language; nor does he need the aid of prosody to enable him to read or to repeat verse according to its just rhythm. It is the business of the poet so to arrange his words as that, repeated in their accustomed measures they shall strike the ear with that regular rhythm which constitutes verse.

It is for foreigners principally that Prosody is necessary; not knowing the accustomed measures of words, they require the aid of rules to teach them those measures and to enable them to read verse so as to make themselves or others sensible of its music. I suppose that the system of rules or exceptions which constitutes Greek and Latin prosody, as shown with us, was unknown to those nations, and that it has been invented by the moderns to whom those languages were foreign. I do not mean to affirm this, however, because you have not searched into the history of this art, nor am I at present in a situation which admits of that search. By industrious examination of the Greek and Latin verse it has been found that pronouncing certain combinations of vowels and consonants long, and

certain others short, the actual arrangement of those long and short syllables, as found in their verse, constitutes a rhythm which is regular and pleasing to the ear, and that pronouncing them with any other measures, the run is unpleasing, and ceases to produce the effect of the verse. Hence it is concluded and rationally enough that the Greeks and Romans pronounced those syllables long or short in reading their verse; and as we observe in modern languages that the syllables of words have the same measures both in verse and prose, we ought to conclude that they had the same also in those ancient languages, and that we must lengthen or shorten in their prose the same syllables which we lengthen or shorten in their verse. Thus, if I meet with the word *præteritos* in Latin prose and want to know how the Romans pronounced it, I search for it in some poet and find it in the line of Virgil, "*O mihi præteritos referat si Jupiter annos!*" where it is evident that *præ* is long and *te* short in direct opposition to the pronunciation which we often hear. The length allowed to a syllable is called its quantity, and hence we say that the Greek and Latin languages are to be pronounced according to quantity.

Those who have undertaken to frame a prosody for the English language have taken quantity for their basis and have mounted the English poetry on Greek and Latin feet. If this foundation admits of no question the prosody of Doctor Johnson, built upon it, is perhaps the best. He comprehends

under three different feet every combination of long and short syllables which he supposes can be found in English verse, to wit: 1. a long and a short, which is the trochee of the Greeks and Romans; 2. a short and a long, which is their iambus; and 3. two short and a long, which is their anapest. And he thinks that all English verse may be resolved into these feet.

It is true that in the English language some one syllable of a word is always sensibly distinguished from the others by an emphasis of pronunciation or by an accent as we call it. But I am not satisfied whether this accented syllable be pronounced longer, louder, or harder, and the others shorter, lower, or softer. I have found the nicest ears divided on the question. Thus in the word *calenture*, nobody will deny that the first syllable is pronounced more emphatically than the others; but many will deny that it is longer in pronunciation. In the second of the following verses of Pope, I think there are but two short syllables.

> Oh! be thou bless'd with all that Heav'n can send
> Long health, long youth, long pleasure, and a friend.

Innumerable instances like this might be produced. It seems, therefore, too much to take for the basis of a system a postulatum which one-half of mankind will deny. But the superstructure of Doctor Johnson's prosody may still be supported by substituting for its basis accent instead of quantity; and nobody will deny us the existence of accent.

In every word of more than one syllable there is some one syllable strongly distinguishable in pronunciation by its emphasis or accent.

If a word has more than two syllables it generally admits of a subordinate emphasis or accent on the alternate syllables counting backwards and forwards from the principal one, as in this verse of Milton:

Well if thrown out as supernumerary,

where the principal accent is on *nu*, but there is a lighter one on *su* and *ra* also. There are some few instances indeed wherein the subordinate accent is differently arranged, as *parisyllabic*, *Constantinople*. It is difficult, therefore, to introduce words of this kind into verse.

That the accent shall never be displaced from the syllable whereon usage hath established it is the fundamental law of English verse.

There are but three arrangements into which these accents can be thrown in the English language which entitled the composition to be distinguished by the name of verse. That is, 1. Where the accent falls on all the odd syllables; 2. Where it falls on all the even syllables; 3. When it falls on every third syllable. If the reason of this be asked, no other can be assigned but that it results from the nature of the sounds which compose the English language and from the construction of the human ear. So, in the infinite gradations of sounds from

the lowest to the highest in the musical scale, those only give pleasure to the ear which are at the intervals we call whole tones and semitones. The reason is that it has pleased God to make us so. The English poet then must so arrange his words that their established accents shall fall regularly in one of these three orders. To aid him in this he has at his command the whole army of monosyllables which in the English language is a very numerous one. These he may accent or not, as he pleases. Thus is this verse:

'Tis júst resentment ańd becómes the brave.
—POPE.

the monosyllable *and* standing between two unaccented syllables catches the accent and supports the measure. The same monosyllable serves to fill the interval between two accents in the following instance:

From úse obsćure and súbtle, bút to knów.
—MILTON

The monosyllables *with* and *in* receive the accent in one of the following instances and suffer it to pass over them in the other.

The témpted *wíth* dishónor fóul, suppósed.
—MILTON.

Attémpt *with* cónfidénce, the wońk is dóne.
—HOPKINS.

Which múst be mútual *ińi* propórtion dúe.
—MILTON.

Too múch of órnamént *in* oútward shéw.
—MILTON.

The following lines afford other proofs of this license.

Yet, yét, I lóve—from Abelard it came.

—POPE.

Flow, flow, my stream this devious way.

—SHENSTONE.

The Greeks and Romans in like manner had a number of syllables which might in any situation be pronounced long or short without offending the ear. They had others which they could make long or short by changing their position. These were of great avail to the poets. The following is an example:

Πολλάκις ὦ πολυφάμε, τὰ | μη καλὰ | καλὰ πε | φανλαι.

—THEOCRITUS.

Ἄγες, Ἄγες βροτολοιγὲ, μιαι φόνε τει χεσιπλῆτα.

—HOM. IL.

Μετσα δε τεμ' χε θεοισι, το | ν$^{\delta}$ μετρόν | εστιν ἀγίσον.

—PHOCYL.

where the word Ages, being used twice, the first syllable is long in the first and short in the second instance, and the second is short in the first and long in the second instance.

But though the poets have great authority over the monosyllables, yet it is not altogether absolute. The following is a proof of this:

Throúgh the dark póstern óf time lóng eláps'd.

—YOUNG.

It is impossible to read this without throwing the accent on the monosyllable *of* and yet the ear is shocked and revolts at this.

That species of our verse wherein the accent falls on all the odd syllables, I shall call, from that circumstance, odd or imparisyllabic verse. It is what has been heretofore called trochaic verse. To the foot which composes it, it will still be convenient and most intelligible to retain the ancient name of Trochee, only remembering that by that term we do not mean a long and a short syllable, but an accented and unaccented one.

That verse wherein the accent is on the even syllables may be called even or parisyllabic verse, and corresponds with what has been called iambic verse; retaining the term iambus for the name of the foot we shall thereby mean an unaccented and an accented syllable.

That verse wherein the accent falls on every third syllable, may be called trisyllabic verse; it is equivalent to what has been called anapestic; and we will still use the term anapest to express two unaccented and one accented syllable.

Accent then is, I think, the basis of English verse; and it leads us to the same threefold distribution of it to which the hypothesis of *quantity* had led Dr. Johnson. While it preserves to us the simplicity of his classification it relieves us from the doubtfulness, if not the error, on which it was founded.

Observations on the Three Measures.

Wherever a verse should regularly begin or end with an accented syllable, that unaccented syllable may be suppressed.

Bréd on plaíns, or bórn in válleys,
Whó would bid́ those scénes adíeu?
Stránger tó the arts of málice,
Whó would éver coúrts pursúe?

—Shenstone

Rúin séize thée, rúthléss king!
Confúsion on thy bánners wáit;
Though, fanńed by Cónquest's crímson wing,
They moćk the air with idle state.
Helm, nor haúlberk's twisted mail,
Nor ev'n thy vírtues, Týrant, shall avail
To save thy secret soúl from nightly féars,
From Cámbria's cúrse, from Cámbria's téars!

—Gray.

Ye Shép | herds! give eár | to my láy,
And take no more heéd of my shéep;
They have nóthing to dó but to stray;
I have nothing to dó but to wéep.

—Shenstone.

In the first example the unaccented syllable with which the imparisyllabic (odd) verse should end is omitted in the second and fourth lines. In the second example the unaccented syllable with which the parisyllabic (even) verse should begin is omitted in the

first and fifth lines. In the third instance one of the unaccented syllables with which the trisyllabic (triple) verse should begin, is omitted in the first and second lines and in the first of the following line both are omitted:

Under this marble, or under this sill
Or under this turf, or e'en what you will
Lies one who ne'er car'd, and still cares not a pin
What they said, or may say, of the mortal within;
But who, living or dying, serene still and free,
Trusts in God that as well as he was he shall be.

—POPE.

An accented syllable may be prefixed to a verse which should regularly begin with an accent and added to one which should end with an accent, thus:

1. Dauntless on his native sands
The dragon-son of Mona stands;
In glittering arms and glory drest,
High he rears his ruby crest.
There the thundering strokes begin,
There the press, and there the din;
Talymalfra's rocky shore

—GRAY.

Again:

There Confusion, Terror's child,
Conflict fierce, and Ruin wild,
Agony, that pants for breath,
Despair, and honorable death.

—GRAY.

2. Whát is this world́? thy schóol Oh! miśery!
Our oń́ly leśson iś to leárn to súffer;
And hé who knoẃs not thát, was bórn for ńothing.
My coḿfort iś each móment tákes awáy
A gráin at léast fŕom the dead lóad that's ón me
And giv́es a néarer próspect óf the gŕave.

—YOUNG.

3. Says Ríchard to Thómas (and seém'd half afŕaid),
"I'm thinḱing to márry thy miśtress's máid;
Now, becaúse Mrs. Lucý to theé is well kńown,
I will dó't if thou bid́st me, or lét it aloń́e."
Said Thomás to Ríchard, "To speák my opíńion,
There is nót such a bitćh in King Géorge's domíńion;
And I fiŕmly beliéve, if thou knéw'st her as Í do,
Thou wouldst choóse out a wh́ipping-post fiŕst to be t́ied to
She's peev́ish, she's thiévish, she's úgly, sh́e's old,
And a liár, and a fóol, and a slút, and a sćold."
Next dáy Richard hásten'd to chuŕch and was ẃed,
And ere niǵht had infórm'd her what Thómas had sáid.

—SHENSTONE.

An accented syllable can never be either omitted or added without changing the character of the verse. In fact it is the number of accented syllables which determines the length of the verse. That is to say, the number of feet of which it consists.

Imparisyllabic verse being made up of Trochees should regularly end with an unaccented syllable; and in that case if it be in rhyme both syllables of the foot must be rhymed. But most frequently the unaccented syllable is omitted according to the license before mentioned and then it suffices to

rhyme the accented one. The following is given as a specimen of this kind of verse.

Shépherd, woúldst thou heŕe obtaiń
Pléasure uńalloý'd with páin?
Joý that súits the rúral sphére?
Geńtle shépherd, lénd an eár.

Leárn to rélish cálm deliǵht
Vérdant váles and foúntains bŕight;
Treés that nód o'er slóping hiĺls,
Cavés that écho tińkling riĺls.

Íf thou cánst no chárm disclóse
Iń the simṕlest búd that blóws;
Gó, forsaḱe thy plaín and fóld;
Joín the crowd, and toiĺ for goĺd.

Tránquil pleásures néver cloý;
Bánish eách tumúltuous joý;
Aĺl but lóve—for loṽe inspíres
Fónder wishes, wármer fíres

Sée, to sweeten thy repose,
The blóssom buds, the fountain flows;
Ló! to crown thy healthful board,
Aĺl that milk and fruits afford.

Séek no more—the rest is vain;
Pleâsure ending soon in pain:
Aṅguish lightly gilded o'er:
Cl̂ose thy wish, and seek no more.

—Shenstone.

Parisyllabic verse should regularly be composed of all iambuses; that is to say, all its even syllables

should be accented. Yet it is very common for the first foot of the line to be a trochee as in this verse:

Yé who e'er lóst an aṅgel, pity ṁe!

Sometimes a trochee is found in the midst of this verse. But this is extremely rare indeed. The following, however, are instances of it taken from Milton.

To dó ought góod *néver* will bé our tásk
Behésts obéy, *wórthiest* to bé obéyed.

Than sélf-esteém, *groúnded* on júst and ríght
Leans the huge elephant the *wisest* of brutes!

In these instances it has not a good effect, but in the following it has:

This hánd is míne—*óh! what* a hánd is hére!
So soft, souls sink into it and are lost.

When this trochee is placed at the beginning of a verse, if it be not too often repeated it produces a variety in the measure which is pleasing. The following is a specimen of the parisyllabic verse, wherein the instances of this trochee beginning the verse are noted:

***Píty* the sorrows óf a poór old mán,**
Whose trembling límbs have borne him tó your doór.
Whose days are dwíndled tó the shórtest span;
***Oh! give* relíef, and Heáven will bless your stóre.**

These tattered clothes my poverty bespeak,
These hoary locks proclaim my lengthen'd years,
And many a furrow in my grief-worn cheek
Has been the channel to a flood of tears.

Yon house, erected on the rising ground,
With tempting aspect, drew me from my road;
For plenty there a residence has found,
And grandeur a magnificent abode.

Hard is the fate of the infirm and poor!
Here, as I craved a morsel of their bread,
A pamper'd menial drove me from the door,
To seek a shelter in an humbler shed.

Oh! take me to your hospitable dome;
Keen blows the wind, and piercing is the cold!
Short is my passage to the friendly tomb,
For I am poor, and miserably old.

Heaven sends misfortunes; why should we repine?
'Tis Heaven has brought me to the state you see;
And your condition may be soon like mine,
The child of sorrow and of misery.

—Moss.

Trisyllabic verse consists altogether of anapests, that is, of feet made up of two unaccented and one accented syllable; and it does not admit a mixture of any other feet. The following is a specimen of this kind of verse:

I have found out a gift for my fair;
I have found where the wood-pigeons breed;
But let me that plunder forbear,
She will say 'twas a barbarous deed:

For he né'er could be trúe, she averr'd,
Who could rób a poor bird of its yoúng;
And I lovéd her the móre when I héard
Such teńderness fall from her tońgue.

—Shenstone.

The following are instances of an iambus in an anapestic verse:

Or uńder this túrf, or ev'ń what they will.

—Pope.

It néver was knówn that círcular létters.

—Swift.

They are extremely rare and are deformities, which cannot be admitted to belong to the verse, notwithstanding the authority of the writers from whom they are quoted. Indeed, the pieces from which they are taken are merely pieces of sport on which they did not mean to rest their poetical merit.

But to what class shall we give the following species of verse? "God save great Washington." It is triple verse, but the accent is on the first syllable of the foot instead of the third. Is this an attempt at dactylian verse? or shall we consider it still as anapestic, wherein either the two unaccented syllables which should begin the verse are omitted; or else the two which should end it are, in reciting, transposed to the next verse to complete the first anapest of that, as in Virgil in the following instance, the last syllable of the line belongs to the next, being amalgamated with that into one.[1]

[1] Virgil quotation not given.

I am not able to recollect another instance of this kind of verse and a single example cannot form a class. It is not worth while, therefore, to provide a foreigner with a critical investigation of its character.

Of Elision.

The vowels only suffer elision except that "v" is also omitted in the word over and "w" in will, "h" in have. This is actually made in most cases, as it was with the Greeks. Sometimes, however, it is neglected to be done, and in those cases the reader must make it for himself, as in the following examples:

Thou yet *mightest* act the friendly part
And lass *unnoticed* from malignant right
And *fallen* to save his injur'd land
Impatient for *it is* past the promis'd hour.

He *also against* the house of God was bold
Anguish and doubt and fear and sorr*ow and* pain
Of Phlegma with *the he*roic race was joined
Damasco, or Maroc*co*, *or* Trebisond
All her *original* brightness, nor appear'd
Open or understood must be resolv'd.

Of Synecphonesis.

Diphthongs are considered as forming one syllable. But vowels belonging to different syllables are sometimes forced to coalesce into a diphthong if the measure requires it. Nor is this coalescence prevented by the intervention of an "h," a "w" or a liquid. In this case the two syllables are run into

one another with such rapidity as to take but the time of one.

The following are examples:

And wish th*e* *a*venging fight
B*e* *i*t so, for I submit, his doom is fair.
When wint'ry winds deform the plent*eo*us year
Droop'd their fair leaves, nor knew th*e* *u*nfriendly soil
The rad*ia*nt morn resumed her orient pride
While born to bring the Muse's happ*ie*r days
A patr*io*t's hand protects a poet's lays
Ye midnight lamps, ye cur*iou*s homes
That eagle gen*iu*s! had he let fall—

Fair fancy wept; and ech*oi*ng sighs confest
The sounding forest fluct*ua*tes in the storm
Thy greatest infl*ue*nce own
Iss*uei*ng from out the portals of the morn
What groves nor streams bestow a virt*uou*s mind
With man*y* *a* proof of recollected love.
With kind concern our pit*yi*ng eyes o'erflow
Lies yet a little embr*yo* unperceiv'd—

Now Marg*aret*'s curse is fall'n upon our heads
And ev*en* *a* Shakespeare to her fame be born
When min*era*l fountains vainly bear
O how self-fettered was my grov*eli*ng soul!
To ev*ery* sod which wraps the dead
And beam protection on a wand*eri*ng maid
Him or his children, ev*il* *he* may be s*ure*
Love unlibid*inou*s resigned, nor jealousy
And left *to* *her*self, if evil thence ensue.
Big swell'd my heart and own'd the p*owe*rful maid
Proceeding, runs low bell*owi*ng round the hills
Thy cherishing, thy hon*ouri*ng, and thy love
With all its shad*owy* shapes is shown
The shepherd's so civil y*ou* *ha*ve nothing to fear.

The elision of a vowel is often actually made where the coalescence before noted be more musical. Perhaps a vowel should never suffer elision when it is followed by a vowel or where only an "h," a "w" or a liquid intervenes between that and a next vowel, or in other words there should never be an elision where synecphonesis may take place. Consider the following instances:

Full of the dear ecstatic pow'r, and sick
Dare not th' infectious sigh; thy pleading look
While ev'ning draws her crimson curtains round
And fright the tim'rous game
Fills ev'ry nerve, and pants in ev'ry vein.

Full of the dear ecstatic power, and sick
Dare not the infectious sigh; thy pleading look
While evening draws her crimson curtains round
And fright the timorous game
Fills every nerve, and pants in every vein.

The pronunciation in these instances with the actual elision is less agreeable to my ear than by synecphonesis.

Of Rules for the Accent.

Accent deciding the measure of English verse as quantity does that of the Latin, and rules having been formed for teaching the quantity of the Latins it would be expected that rules should also be offered for indicating to foreigners the accented syllable of every word in English. Such rules have been

attempted. Were they to be so completely formed as that the rules and their necessary exceptions would reach every word in the language, they would be too great a charge on the memory and too complicated for use either in reading or conversation. In the imperfect manner in which they have been hitherto proposed they would lead into infinite errors. It is usage which has established the accent of every word, or rather I might say it has been caprice or chance, for nothing can be more arbitrary or less consistent. I am of opinion it is easier for a foreigner to learn the accent of every word individually, than the rules which would teach it. This his dictionary will teach him, if, when he recurs to it for the meaning of a word, he will recollect that he should notice also on which syllable is its accent. Or he may learn the accent by reading poetry, which differs our language from Greek and Latin, wherein you must learn their prosody in order to read their poetry. Knowing that with us the accent is on every odd syllable or on every even one or on every third, he has only to examine of which of these measures the verse is to be able to read it correctly. But how shall he distinguish the measure to which the verse belongs?

If he can find in the piece any one word the accent of which he already knows, that word will enable him to distinguish if it be parisyllabic or imparisyllabic. Let us suppose, for example, he would read the following piece:

How sleep the brave, who sink to rest,
By all their country's wishes blest!
When Spring, with dewy fingers cold,
Returns to deck their hallowed mould,
She there shall dress a *sweeter* sod
Than Fancy's feet have ever trod.

By fairy hands their knell is rung;
By forms unseen their dirge is sung;
There Honor comes, a pilgrim gray,
To bless the turf that wraps their clay;
And Freedom shall a while repair,
To dwell a weeping hermit there!

—COLLINS.

He finds the word *sweeter*, the accent of which he has already learned to be on the first syllable, sweet. He observes that that is an even syllable, being the sixth of the line. He knows then that it is parisyllabic verse and from that he can accent the whole piece. If he does not already know the accent of a single word he must look in his dictionary for some one, and that will be a key to the whole piece. He should take care not to rely on the first foot of any line, because, as has been before observed, that is often a trochee even in the parisyllabic verse. Without consulting his dictionary at all, or knowing a single accent, the following observation will enable him to distinguish between these two species of verse when they are in rhyme. An odd number of syllables with a single rhyme, or an even number with a double rhyme, prove the verse to be imparisyllabic.

An even number of syllables with a single rhyme, or an odd number with a double one, prove it to be parisyllabic, *e. g.*:

Learn by this unguarded lover
When your secret sighs prevail
Not to let your tongue discover
Raptures that you should conceal.

—CUNNINGHAM.

He sung and hell consented
To hear the poet's prayer
Stern Proserpine relented
And gave him back the fair.

—POPE.

If in thus examining the seat of the accent he finds it is alternately on an odd and an even syllable, that is to say, on the third, sixth, ninth, twelfth syllables, the verse is trisyllabic.

With her how I stray'd amid fóuntains and bowers!
Or loĭter'd behińd, and collected the flowérs!
Then breathless with ardor my fair one pursued,
And to think with what kindness my gārland she viewd!
But be still, my fond heart! this emōtion give o'er;
Fain wouldst thou forgĕt thou must love her no more.

—SHENSTONE.

It must be stated that in this kind of verse we should count backward from the last syllable, if it be a single rhyme, or the last but one if it be double; because one of the unaccented syllables which should begin the verse is so often omitted. This last syllable

in the preceding example should be the twelfth. When the line is full it is accented of course. Consulting the dictionary, therefore, we find in the first line the ninth syllable accented; in the second, the sixth; in the third line the accented syllables there being alternately odd and even, to wit, the third, sixth, ninth and twelfth, we know the verse must be trisyllabic.

The foreigner then first determining the measure of the verse, may read it boldly. He will commit a few errors, indeed; let us see what they are likely to be. In imparisyllabic verse none, because that consists of trochees invariably; if an unaccented syllable happens to be prefixed to the verse, he will discover it by the number of syllables. In parisyllabic verse, when a trochee begins the verse, he will pronounce that foot wrong. This will perhaps happen once in ten lines; in some authors more, in others less. In like manner he will pronounce wrong the trochee in the middle of the line. But this he will encounter once in some hundreds of times. In the trisyllabic verse he can never commit an error if he counts from the end of the line. These imperfections are as few as a foreigner can possibly expect in the beginning; and he will reduce their number in proportion as he acquires by practice a knowledge of the accents.

The subject of accent cannot be quitted till we apprise him of another imperfection which will show itself in his reading, and which will be longer remov-

ing. Though there be accents on the first, the second or the third syllables of the foot, as has been before explained, yet is there subordination among these accents, a modulation in their tone of which it is impossible to give a precise idea in writing. This is intimately connected with the sense; and though a foreigner will readily find to what words that would give distinguished emphasis, yet nothing but habit can enable him to give actually the different shades of emphasis which his judgment would dictate to him. Even natives have very different powers as to this article. This difference exists both in the organ and the judgment. Foote is known to have read Milton so exquisitely that he received great sums of money for reading him to audiences who attended him regularly for that purpose. This difference, too, enters deeply into the merit of theatrical actors. The foreigner, therefore, must acquiesce under a want of perfection which is the lot of natives in common with himself.

We will proceed to give examples which may explain what is here meant, distinguishing the accents into four shades by these marks '''' ''' '' ' the greater number of marks denoting the strongest accents.

Oh'''' when the growling''' winds contend''' and all
The sounding' forest fluctuates' in the storm'
To sink in warm repose, and hear the din
Howl o'er the steady battlements, delights
Above the luxury of vulgar sleep.

—ARMSTRONG.

Life's cares are comforts; such by heav'n design'd
He that has none, must make them or be wretched
Cares are employments; and without employ
The soul is on a rack, the rack of rest.

—YOUNG.

O! lost to virtue, lost to manly thought,
Lost to the noble sallies of the soul!
Who think it solitude, to be alone.
Communion sweet! communion large and high!
Our reason, guardian angel, and our God!
Then nearest these, when others most remote;
And all, ere long, shall be remote, but these.

—YOUNG.

By nature's law, what may be, may be now;
There's no prerogative in human hours.
In human hearts what bolder thought can rise,
Than man's presumption on to-morrow's dawn?
Where is to-morrow? In another world.
For numbers this is certain; the reverse
Is sure to none; and yet on this perhaps,
This peradventure, infamous for lies,
As on a rock of adamant, we build
Our mountain hopes; spin out eternal schemes,
As we the fatal sisters could outspin,
And, big with life's futurities, expire.

—YOUNG.

Cowards die many times before their deaths;
The valiant never taste of death but once.
Of all the wonders that I yet have heard,
It seems to me most strange that men should fear,
Seeing that death, a necessary end,
Will come when it will come.

I cánnot téll what yóu and óther mén
Thínk of this lífe, bút, for my síngle sélf,
I had as liéf nót be as líve to bé
In awe of súch a thíng as I mysélf.
I was born frée as Cæsar, só were yóu;
We bóth have féd as wéll, and we can bóth
Endúre the wínter's cóld as well as hé.

The cloúd-capp'd towers, the gorgeous pálaces,
The solémn témples, thé great glóbe itsélf,
Yea, áll which it inhérit, shall dissólve,
And, like this insubstantial pageant faded,
Leáve not a rack behínd.

I am far from presuming to give this accentuation as perfect. No two persons will accent the same passage alike. No person but a real adept would accent it twice alike. Perhaps two real adepts who should utter the same passage with infinite perfection yet by throwing the energy into different words might produce very different effects. I suppose that in those passages of Shakespeare, for example, no man but Garrick ever drew their full tone out of them, if I may borrow an expression from music. Let those who are disposed to criticise, therefore, try a few experiments themselves. I have essayed these short passages to let the foreigner see that the accent is not equal; that they are not to be read monotonously. I chose, too, the most pregnant passages, those wherein every word teems with latent meaning, that he might form an idea of the degrees of excellence of which this art is capable.

He must not apprehend that all poets present the same difficulty. It is only the most brilliant passages. The great mass, even of good poetry, is easily enough read. Take the following examples, wherein little differences in the enunciation will not change the meaning sensibly.

Here, in cool grot and mossy cell,
We rural fays and faeries dwell;
Though rarely seen by mortal eye,
When the pale Moon, ascending high,
Darts through yon lines her quivering beams,
We frisk it near these crystal streams.

Her beams, reflected from the wave,
Afford the light our revels crave;
The turf, with daisies broider'd o'er,
Exceeds, we wot, the Parian floor;
Nor yet for artful strains we call,
But listen to the water's fall.

Would you then taste our tranquil scene,
Be sure your bosoms be serene:
Devoid of hate, devoid of strife,
Devoid of all that poisons life:
And much it 'vails you, in their place
To graft the love of human race.

And tread with awe these favor'd bowers,
Nor wound the shrubs, nor bruise the flowers;
So may your path with sweets abound;
So may your couch with rest be crown'd!
But harm betide the wayward swain,
Who dares our hallow'd haunts profane!

—SHENSTONE.

To fair Fidele's grassy tomb
  Soft maids and village hinds shall bring
Each opening sweet, of earliest bloom,
  And rifle all the breathing Spring.

No wailing ghost shall dare appear
  To vex with shrieks this quiet grove,
But shepherd lads assemble here,
  And melting virgins own their love.

No wither'd witch shall here be seen,
  No goblins lead their nightly crew;
The female fays shall haunt the green,
  And dress thy grave with pearly dew;

The red-breast oft at evening hours
  Shall kindly lend his little aid,
With hoary moss, and gather'd flowers,
  To deck the ground where thou art laid.

When howling winds, and beating rain,
  In tempests shake thy sylvan cell;
Or 'midst the chase on every plain,
  The tender thought on thee shall dwell.

Each lonely scene shall thee restore,
  For thee the tear be duly shed;
Belov'd, till life can charm no more
  And mourn'd, till Pity's self be dead.

—Collins.

Of the Length of Verse.

Having spoken of feet which are only the constituent part of verse, it becomes necessary to say something of its larger divisions, and even of the

verse itself. For what is a verse? This question naturally occurs, and it is not sufficiently answered by saying it is a whole line. Should the printer think proper to print the following passage in this manner:

Ὣς εἰπὼν οὗ παιδὸς ὀρέξατο φαίδιμος Ἕκτωρ. ἆψ δ' ὁ πάϊς πρὸς κόλπον ἐϋζώνοιο τιθήνης ἐκλίνθη ἰάχων, πατρὸς φίλου ὄψιν ἀτυχθείς, ταρβήσας χαλκόν τε ἰδὲ λόφον ἱππιοχαίτην, δεινὸν ἀπ' ἀκροτάτης κόρυθος νεύοντα νοήσας ἐκ δ' ἐγέλασσε πατήρ τε φίλος καὶ πότνια μήτηρ. αὐτίκ' ἀπὸ κρατὸς κόρυθ' εἵλετο φαίδιμος Ἕκτωρ, καὶ τὴν μὲν κατέθηκεν ἐπὶ χθονὶ παμφανόωσαν· αὐτὰρ ὅ γ' ὃν φίλον υἱὸν ἐπεὶ κύσε πῆλέ τε χερσίν, εἶπεν ἐπευξάμενος Διΐ τ' ἄλλοισίν τε θεοῖσι· Ζεῦ ἄλλοι τε θεοί, δότε δὴ καὶ τόνδε γενέσθαι παῖδ' ἐμόν, ὡς καὶ ἐγώ περ, ἀριπρεπέα Τρώεσσιν, ὧδε βίην τ' ἀγαθὸν καὶ Ἰλίου ἶφι ἀνάσσειν· καὶ ποτέ τις εἴποι, 'πατρός γ' ὅδε πολλὸν ἀμείνων' ἐκ πολέμου ἀνιόντα· φέροι δ' ἔναρα βροτόεντα κτείνας δηΐον ἄνδρα, χαρείη δὲ φρένα μήτηρ. Ὣς εἰπὼν ἀλόχοιο φίλης ἐν χερσὶν ἔθηκε παῖδ' ἑόν· ἣ δ' ἄρα μιν κηώδεϊ δέξατο κόλπῳ δακρυόεν γελάσασα· πόσις δ' ἐλέησε νοήσας, χειρί τέ μιν κατέρεξεν ἔπος τ' ἔφατ' ἔκ τ' ὀνόμαζε·

it would still be verse; it would still immortalize its author were every other syllable of his compositions lost. The poet then does not depend on the printer to give a character to his work. He has studied the human ear. He has discovered that in any rhythmical composition the ear is pleased to find at certain regular intervals a pause where it may rest, by which it may divide the composition into parts, as a piece of music is divided into bars. He contrives to mark this division by a pause in the sense or at least by an emphatical word which may force the pause so that the ear may feel the regular return

of the pause. The interval then between these regular pauses constitutes a verse. In the morsel before cited this interval comprehends six feet, and though it is written in the manner of prose, yet he who can read it without pausing at every sixth foot, like him who is insensible to the charm of music, who is insensible of love or of gratitude, is an unfavored son of nature to whom she has given a faculty fewer than to others of her children, one source of pleasure the less in a world where there are none to spare. A well-organized ear makes the pause regularly whether it be printed as verse or as prose. But not only the organization of the ear but the character of the language have influence in determining the length of the verse. Otherwise the constitution of the ear being the same with all nations the verse would be of the same length in all languages, which is not the case. But the difference in language occasions the ear to be pleased with a difference of interval in the pause. The language of Homer enabled him to compose in verse of six feet; the English language cannot bear this. They may be of one, two, three, four, or five feet, as in the following examples:

One foot.

Turning
Burning
Changing
Ranging

I mourn
I sigh
I burn
I die
Let us part—
Let us part
Will you break
My poor heart?

Two feet.

Flow'ry mountains
Mossy fountains
Shady woods
Crystal floods
To me the rose
No longer glows
Ev'ry plant
Has lost its scent.

Prithee Cupid no more
Hurl thy darts at threescore
To thy girls and thy boys
Give thy pains and thy joys.

Three feet.

Farewell fear and sorrow
Pleasure till to-morrow.

Yes, ev'ry flow'r that blows
  I passed unheeded by
Till this enchanting rose
  Had fix'd my wand'ring eye.
—Cunningham.

The rose though a beautiful red
  Looks faded to Phyllis's bloom;
And the breeze from the bean-flower bed
  To her breath's but a feeble perfume;
A lily I plucked in full pride
  Its freshness with hers to compare,
And foolishly thought till I try'd
  The flow'ret was equally fair.

—CUNNINGHAM.

Four feet.

From the dark tremendous cell
Where the fiends of magic dwell
Now the sun hath left the skies
Daughters of Enchantment, rise!

—CUNNINGHAM.

Come Hope, and to my pensive eye
Thy far foreseeing tube apply
Whose kind deception steals us o'er
The gloomy waste that lies before.

—LANGHORNE.

'Mongst lords and fine ladies we shepherds are told
The dearest affections are barter'd for gold
That discord in wedlock is often their lot
While Cupid and Hymen shake hands in a cot.

—CUNNINGHAM.

Here the parisyllabic alone bears one foot more.

Oh liberty! thou goddess heav'nly bright
Profuse of bliss, and pregnant with delight,
Eternal pleasures in thy presence reign,
And smiling Plenty leads thy wanton train;
Eas'd of her load subjection grows more light.

And Poverty looks cheerful in thy sight;
Thou mak'st the gloomy face of nature gay
Giv'st beauty to the sun, and pleasure to the day.
—ADDISON.

The last line furnishes an instance of six feet, usually called an Alexandrian; but no piece is ever wholly in that measure. A single line only is tolerated now and then, and is never a beauty. Formerly it was thought that the language bore lines of seven feet in length, as in the following:

'Tis he whose ev'ry thought and deed by rules of virtue moves;
Whose gen'rous tongue disdains to speak the thing his heart disproves
Who never did a slander forge his neighbor's fame to wound;
Nor listen to a false report by malice whisper'd round.
—PSALM 15.

But a little attention shows that there is as regular a pause at the fourth foot as at the seventh, and as verse takes its denomination from the shortest regular intervals, this is no more than an alternate verse of four and of three feet. It is, therefore, usually written as in the following stanzas of the same piece:

Who to his plighted vows and trust
Has ever firmly stood
And, though he promise to his loss,
He makes his promise good.

The man who by this steady course
Has happiness ensur'd
When earth's foundations shake, will stand
By Providence secur'd.

We may justly consider, therefore, verses of five feet as the longest the language sustains, and it is remarkable that not only this length, though the extreme, is generally the most esteemed, but that it is the only one which has dignity enough to support blank verse, that is, verse without rhyme. This is attempted in no other measure. It constitutes, therefore, the most precious part of our poetry. The poet, unfettered by rhyme, is at liberty to prune his diction of those tautologies, those feeble nothings necessary to introtrude the rhyming word. With no other trammel than that of measure he is able to condense his thoughts and images and to leave nothing but what is truly poetical. When enveloped in all the pomp and majesty of his subject he sometimes even throws off the restraint of the regular pause:

> Of Man's first disobedience, and the fruit
> Of that forbidden tree, whose mortal taste
> Brought death into the world, and all our woe,
> With loss of Eden, till one greater Man
> Restore us, and regain the blissful seat,
> Sing, heavenly Muse! that on the sacred top
> Of Oreb, or of Sinai, didst inspire
> That shepherd, who first taught the chosen seed,
> In the beginning, how the Heavens and Earth
> Rose out of Chaos.

> Then stay'd the fervid wheels, and in his hand
> He took the golden compasses, prepared
> In God's eternal store, to circumscribe
> This universe, and all created things

One foot he centred, and the other turn'd
Round, through the vast profundity obscure
And said, "Thus far extend."

There are but two regular pauses in this whole passage of seven verses. They are constantly drowned by the majesty of the rhythm and sense. But nothing less than this can authorize such a license. Take the following proof from the same author:

Again, God said, "Let there be firmament
Amid the waters, and let it divide
The waters from the waters;" and God made
The firmament. —MILTON 7: 261.

And God said, Let there be a firmament in the midst of the waters, and let it divide the waters from the waters.
And God made the firmament. —GENESIS 1: 6.

I have here placed Moses and Milton side by side, that he who can may distinguish which verse belongs to the poet. To do this he will not have the aid either of the sentiment, diction or measure of poetry. The original is so servilely copied that though it be cut into pieces of ten syllables, no pause is marked between these portions.

What proves the excellence of blank verse is that the taste lasts longer than that for rhyme. The fondness for the jingle leaves us with that for the rattles and baubles of childhood, and if we continue to read rhymed verse at a later period of life it is such only where the poet has had force enough to bring great beauties of thought and diction into

this form. When young any composition pleases which unites a little sense, some imagination, and some rhythm, in doses however small. But as we advance in life these things fall off one by one, and I suspect we are left at last with only Homer and Virgil, perhaps with Homer alone. He like

> Hope travels on nor quits us when we die.

Having noted the different lengths of line which the English poet may give to his verse it must be further observed that he may intermingle these in the same verse according to his fancy.

The following are selected as examples:

> A tear bedews my Delia's eye,
> To think yon playful kid must die;
> From crystal spring, and flowery mead,
> Must, in his prime of life, recede!
>
> She tells with what delight he stood,
> To trace his features in the flood;
> Then skipp'd aloof with quaint amaze,
> And then drew near again to gaze.
>
> —SHENSTONE.

> Full many a gem of purest ray serene
> The dark unfathomed caves of ocean bear;
> Full many a flower is born to blush unseen,
> And waste its sweetness on the desert air.
>
> Some village Hampden, that, with dauntless breast,
> The little tyrant of his fields withstood,
> Some mute inglorious Milton here may rest,
> Some Cromwell, guiltless of his country's blood.
>
> —GRAY.

There shall my plaintive song recount
  Dark themes of hopeless woe,
And faster than the drooping fount
  I'll teach mine eyes to flow.

There leaves, in spite of Autumn green
  Shall shade the hallow'd ground,
And Spring will there again be seen
  To call forth flowers around.

—SHENSTONE.

O Health! capricious maid!
  Why dost thou shun my peaceful bower,
  Where I had hope to share thy power,
And bless thy lasting aid?

—SHENSTONE.

The man whose mind, on virtue bent
Pursues some greatly good intent
    With undivided aim
Serene beholds the angry crowd
Nor can their clamors fierce and loud
    His stubborn purpose tame.

Ye gentle Bards! give ear,
  Who talk of amorous rage,
Who spoil the lily, rob the rose,
Come learn of me to weep your woes:
  "O sweet! O sweet Anne Page!"

—SHENSTONE.

Too long a stranger to repose,
At length from Pain's abhorred couch I rose
  And wander'd forth alone,
To court once more the balmy breeze,
And catch the verdure of the trees,
  Ere yet their charms were flown.

—SHENSTONE.

O thou, by Nature taught
To breathe her genuine thought,
In numbers warmly pure, and sweetly strong;
Who first, on mountains wild,
In Fancy, loveliest child,
Thy babe, and Pleasure's, nursed the powers of song!

—Collins.

'Twas in a land of learning,
The Muse's favorite city,
Such pranks of late
Were play'd by a rat,
As—tempt one to be witty.

—Shenstone.

Yet stay, O stay! celestial Pow'rs!
And with a hand of kind regard
Dispel the boisterous sto m that low'rs
Destruction on the fav'rite bard;
O watch with me his last expiring breath
And snatch him from the arms of dark oblivious death.

—Gray.

What is grandeur, what is power?
Heavier toil, superior pain.
What the bright reward we gain?
The grateful memory of the good.
Sweet is the breath of vernal shower,
The bee's collected treasures sweet,
Sweet music's melting fall, but sweeter yet
The still small voice of gratitude.

Methinks I hear, in accents low,
The sportive, kind reply:
Poor moralist! and what art thou?
A solitary fly!
Thy joys no glittering female meets,

No hive hast thou of hoarded sweets,
No painted plumage to display;
On hasty wings thy youth is flown;
Thy sun is set, thy spring is gone—
We frolic while 'tis May.

—Gray.

Then let me rove some wild and heathy scene;
Or find some ruin, 'midst its dreary dells,
Whose walls more awful nod
By thy religious gleams.

Or, if chill blustering winds, or driving rain,
Prevent my willing feet, be mine the hut,
That, from the mountain's side,
Views wilds, and swelling floods.

—Collins.

Though the license to intermingle the different measures admits an infinitude of combinations, yet this becomes less and less pleasing in proportion as they depart from that simplicity and regularity of which the ear is most sensible. When these are wholly or nearly neglected, as in the lyric pieces, the poet renounces one of the most fascinating charms of his art. He must then look well to his matter and supply in sublimity or other beauties the loss of regular measure. In effect these pieces are seldom read twice.

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